representation amendment; to the Committee on the Judiciary.

9129. Also, petition of 19 residents of Harrington, Del., favoring the stop-alien representation amendment; to the Committee on the Judiciary.

9130. Also, petition of 52 residents of Laurel, Del., favoring the stop-alien representation amendment; to the Committee on the Judiciary.

9131. By Mr. LAMNECK: Petition of G. S. Pierce, John H. West, C. M. Odell, and numerous other citizens of the city of Columbus, Ohio, urging favorable action by Congress upon the stop-alien representation amendment to the United States Constitution to cut out the 6,280,000 aliens in this country, and count only American citizens, when making future apportionments for congressional districts; to the Committee on Immigration and Naturalization.

9132. By Mr. LARRABEE: Petition of Melvin H. King and others, urging support of the legislative program of the American Legion; the petition bears the signatures of 85 residents of Elwood, Ind., and the immediate vicinity; to the Committee on World War Veterans' Legislation.

9133. Also, petition of G. W. M. Granahun and others, urging support of the stop-alien representation amendment to the United States Constitution; the petition bears the signatures of 49 residents of Anderson, Ind., and the immediate vicinity; to the Committee on Ways and Means.

9134. By Mr. LINDSAY: Petition of Labor's National Committee for Modification of the Volstead Act, Washington, D. C., favoring passage of the Collier bill; to the Committee on Ways and Means.

9135. Also, petition of the Federal Grand Jury Association for the Southern District of New York, New York City, favoring modification of the Volstead Act; to the Committee on the Judiciary.

9136. By Mr. PERKINS: Petition of Women's Home Missionary Society, of Washington, N. J., favoring the enactment of Senate Resolution 170, providing for the establishment of a Federal motion-picture commission; to the Committee on Interstate and Foreign Commerce.

9137. Also, petition of Ladies' Auxiliary, Methodist Church, Ridgewood, N. J., submitted by Mrs. W. J. Tonkin and Miss I. L. Starkey, and containing the names of 24 members, favoring the enactment of Senate Resolution 170; to the Committee on Interstate and Foreign Commerce.

9138. Also, petition of 120 citizens of Bergen County, N. J., favoring an amendment to the Constitution of the United States to exclude aliens in the count for the apportionment of Representatives in Congress among the several States; to the Committee on the Judiciary.

9139. Also, petition of Women's Home Missionary Society of the Methodist Episcopal Church, Westwood, N. J., containing the names of 31 members, favoring the enactment of Senate Resolution 170, for the establishment of a Federal motion-picture commission; to the Committee on Interstate and Foreign Commerce.

9140. By Mr. RUDD: Petition of the Federal Grand Jury Association for the Southern District of New York, with reference to the repeal of the eighteenth amendment and the modification of the Volstead Act should be decided upon without unnecessary delay; to the Committee on the Judiciary.

9141. By Mr. SPARKS: Petition of citizens of Milo, Kans., opposing the repeal of the eighteenth amendment and an amendment for wine or beer, submitted by Mrs. E. W. Clark and signed by 29 others; to the Committee on the Judiciary.

9142. Also, petition of citizens of Belleville, Rydal, Concordia, Jamestown, and Munden, Kans., favoring the passage of the stop alien representation amendment to the United States Constitution, submitted by J. J. Eastman and Rose M. Schull and signed by 13 others; to the Committee on the Judiciary.

9143. By Mr. STEWART: Petition of 100 residents of the fifth congressional district, opposing every legislative act that would legalize alcoholic liquors stronger than one-half of 1 per cent; to the Committee on Ways and Means.

9144. By Mr. STRONG of Pennsylvania: Petition of citizens of Corsica, Pa., and vicinity, in favor of the proposed amendment to the Constitution of the United States, to exclude aliens and count only American citizens when making future apportionments for congressional districts; to the Committee on the Judiciary.

9145. By Mr. STULL: Petition of 96 citizens of Johnstown, Pa., favoring the stop-alien representation amendment to the United States Constitution; to the Committee on the Judiciary.

9146. Also, petition of the Seventh Ward Booster Club, of Johnstown, Pa., favoring the passage of the Moore immigration bill; to the Committee on the Judiciary.

9147. Also, petition of 25 citizens of East Conemaugh, Pa., favoring the submission of the stop-alien representation amendment to the United States Constitution; to the Committee on the Judiciary.

9148. Also, petition of Dale Council, No. 642, Junior Order United American Mechanics, of Johnstown, Pa., favoring the passage of the Moore immigration bill; to the Committee on the Judiciary.

9149. By Mr. SUTPHIN: Memorial of New Jersey State Chamber of Commerce, 605 Broad Street, Newark, N. J., resolving that there should be no advance payment of the so-called bonus; to the Committee on Ways and Means.

9150. By Mr. WASON: Petition of Edith B. Parker and 21 other residents of Peterboro and Hancock, N. H., urging the passage of the stop-alien representation amendment to the United States Constitution to cut out the 6,280,000 aliens in this country, and count only American citizens, when making future apportionments for congressional districts; to the Committee on the Judiciary.

9151. Also, petition of William H. Leith and six other residents of Lancaster, N. H., urging the passage of the stop-alien representation amendment to the United States Constitution to cut out the 6,280,000 aliens in this country, and count only American citizens, when making future apportionments for congressional districts; to the Committee on the Judiciary.

9152. Also, petition of Elon R. Gregg and 20 other residents of Sunapee, N. H., urging the passage of the stop-alien representation amendment to the United States Constitution to cut out the 6,280,000 aliens in this country, and count only American citizens, when making future apportionments for congressional districts; to the Committee on the Judiciary.

9153. By Mr. WATSON: Petition signed by residents of Trevose, Pa.; in opposition to including aliens when making future apportionments for congressional districts; to the Committee on the Judiciary.

9154. Also, petition signed by members of the Rangers Club of Montgomery County, Pa., in opposition to including aliens when making future apportionments for congressional districts; to the Committee on the Judiciary.

9155. By Mr. WEST: Petition of 107 members of the Evelyn Graham Woman's Christian Temperance Union, of Newark, Licking County, Ohio, urging passage of stop-alien representation amendment to the United States Constitution to cut out the 6,280,000 aliens in this country and count only American citizens when making future apportionments for congressional districts; to the Committee on the Judiciary.

9156. By the SPEAKER: Petition of American Temperance Society of Seventh-Day Adventists, protesting against the repeal of the eighteenth amendment; to the Committee on the Judiciary.

SENATE

WEDNESDAY, DECEMBER 21, 1932

(Legislative day of Thursday, December 8, 1932)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

The VICE PRESIDENT. The Senate will receive a message from the President of the United States.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Latta, one of his secretaries.

THE JOURNAL

Mr. FESS. Mr. President, I ask unanimous consent for the approval of the Journal for the calendar days of Monday, December 19, and Tuesday, December 20, 1932.

The VICE PRESIDENT. Without objection, that order will be made.

CALL OF THE ROLL

Mr. FESS. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Ashurst	Couzens	Kendrick	Sheppard
Austin	Cutting	King	Shipstead
Bailey	Dale	La Follette	Shortridge
Bankhead	Davis	Lewis	Smith
Barbour	Dickinson	Logan	Smoot
Barkley	Dill	McGill	Steiwer
Bingham	Fess	McKellar	Swanson
Black	Frazier	Metcalf	Thomas, Idaho
Blaine	George	Moses	Thomas, Okla.
Borah	Glass	Neely	Townsend
Broussard	Gore	Norbeck	Trammell
Bulkley	Grammer	Norris	Tydings
Bulow	Hale	Nye	Vandenberg
Byrnes	Harrison	Oddie	Wagner
Capper	Hastings	Patterson	Walcott
Caraway	Hawes	Pittman	Walsh, Mass.
Carey	Hayden	Reed	Walsh, Mont.
Cohen	Hebert	Reynolds	Watson
Connally	Howell	Robinson, Ark.	Wheeler
Coolidge	Hull	Robinson, Ind.	White
Copeland	Johnson	Schall	
Costigan	Kean	Schuyler	

Mr. FESS. I wish to announce that the senior Senator from Oregon [Mr. McNARY] is necessarily absent on account of illness.

Mr. HARRISON. I desire to announce that my colleague the junior Senator from Mississippi [Mr. STEPHENS] is detained by reason of illness.

Mr. TRAMMELL. I wish to announce that my colleague the senior Senator from Florida [Mr. FLETCHER] is detained by illness.

Mr. LA FOLLETTE. I wish to announce that the Senator from Iowa [Mr. BROOKHART] is necessarily absent by reason of illness.

Mr. SHEPPARD. I desire to announce the necessary absence from the Senate of the junior Senator from Louisiana [Mr. LONG].

The VICE PRESIDENT. Eighty-six Senators have answered to their names. A quorum is present.

NOBEL PEACE PRIZE

The VICE PRESIDENT laid before the Senate a letter from the Acting Secretary of State, transmitting copy of a circular of the Nobel Committee of the Norwegian Parliament regarding the proposals of candidates for the Nobel peace prize for the year 1933, which, with the accompanying paper, was ordered to lie on the table.

DISPOSITION OF USELESS PAPERS

The VICE PRESIDENT laid before the Senate a letter from the Postmaster General, transmitting, pursuant to law, a schedule of papers and documents on the files of the Post Office Department not needed in the transaction of public business and having no permanent value or historical interest, and asking for action looking toward their disposition, which, with the accompanying list, was referred to a Joint Select Committee on the Disposition of Useless Papers in the Executive Departments.

The VICE PRESIDENT appointed Mr. ODDIE and Mr. McKELLAR members of the committee on the part of the Senate.

REPORTS OF THE SECRETARY OF AGRICULTURE

The VICE PRESIDENT laid before the Senate a letter from the Acting Secretary of Agriculture, transmitting, pursuant to law, several reports for the fiscal year 1932, which were referred as follows:

Report on Federal-aid road work; and

Report on national-forest roads and trails; to the Committee on Post Offices and Post Roads.

Report on the sale of waste paper in the Department of Agriculture; to the Committee on Appropriations.

SIZES OF STORES OF RETAIL CHAINS (S. DOC. NO. 156)

The VICE PRESIDENT laid before the Senate a letter from the chairman of the Federal Trade Commission, transmitting, pursuant to Senate Resolution 224, Seventieth Congress, first session, a report of the commission entitled "Sizes of Stores of Retail Chains," which, with the accompanying report, was referred to the Committee on the Judiciary and ordered to be printed.

SENATOR FROM SOUTH CAROLINA

Mr. BYRNES. Mr. President, I present the credentials of my colleague, Mr. SMITH, and ask that they may be read and placed on file.

The credentials were ordered to be placed on file, and were read, as follows:

To the PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the 8th day of November, 1932, E. D. SMITH was duly chosen by the qualified electors of the State of South Carolina a Senator from said State to represent said State in the Senate of the United States for the term of six years beginning on the 4th day of March, 1933.

Witness: His excellency our governor, I. C. Blackwood, and our seal hereto affixed at Columbia, this 25th day of November, A. D. 1932.

I. C. BLACKWOOD,
Governor.

By the governor:
[SEAL.]

W. P. BLACKWELL,
Secretary of State.

PETITIONS AND MEMORIALS

Mr. FESS presented a resolution adopted by delegates to the Interclub Council, Lorain, Ohio, favoring the making of an appropriation for improvement of the harbor at Lorain, Ohio, which was referred to the Committee on Commerce.

Mr. BARBOUR presented the petition of the Woman's Home Missionary Society of Washington, N. J., praying for the passage of legislation to regulate the motion-picture industry, which was ordered to lie on the table.

He also presented the petition of the Woman's Home Missionary Society of Washington, N. J., praying for the prompt ratification of the World Court protocols, which was ordered to lie on the table.

Mr. COPELAND presented a resolution adopted by the Fulton Market Fish Mongers' Association, New York City, N. Y., favoring the retention of Mr. Henry O'Malley and Dr. Lewis Radcliffe in the service of the Bureau of Fisheries, which was referred to the Committee on Commerce.

He also presented resolutions adopted by the board of directors of the Albany, N. Y., branch of the League of Nations Association, favoring the making of an adequate appropriation for the expenses of the American delegation to the general disarmament conference in Geneva, which were referred to the Committee on Foreign Relations.

He also presented a resolution adopted by the International Cooperation Study Group of the League of Women Voters, of Schenectady, N. Y., favoring the exercise of restraint and considered action and a less rigid attitude in Congress toward the problem of intergovernmental debts, which was referred to the Committee on Finance.

He also presented memorials numerously signed of sundry citizens of the State of New York, remonstrating against the adoption of measures to legalize liquors with an alcoholic content stronger than one-half of 1 per cent, which were referred to the Committee on the Judiciary.

He also presented a resolution adopted by Saratoga County Council, Boy Scouts of America, at Mechanicville, N. Y., favoring the early acquisition and perpetuation by the United States of the Saratoga battlefield as a national shrine, which was referred to the Committee on Military Affairs.

He also presented the petition of the Wesleyan Service Guild of the Methodist Episcopal Church of White Plains, N. Y., praying for the prompt ratification of the World Court protocols, which was ordered to lie on the table.

He also presented the petition of the Wesleyan Service Guild of the Methodist Episcopal Church of White Plains, N. Y., praying for the passage of legislation to regulate the motion-picture industry, which was ordered to lie on the table.

BILLS AND JOINT RESOLUTIONS INTRODUCED

Bills and joint resolutions were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. BARBOUR:

A bill (S. 5254) for the relief of the George A. Fuller Co.; to the Committee on Claims.

By Mr. LA FOLLETTE (for Mr. BROOKHART):

A bill (S. 5255) for the relief of R. R. Atchison, administrator of the estate of Elizabeth Mary Atchison, deceased; to the Committee on Claims.

By Mr. SMOOT:

A bill (S. 5256) granting a pension to Eliza Beagley (with accompanying papers); to the Committee on Pensions.

By Mr. McGILL:

A bill (S. 5257) granting a pension to Lucy Copeland; to the Committee on Pensions.

A bill (S. 5258) for the conservation of oil and gas and protection of American sources thereof from injury, correlation of domestic and foreign production, and consenting to an interstate compact for such purposes; to the Committee on the Judiciary.

By Mr. NYE:

A bill (S. 5259) to provide for agricultural entry of lands withdrawn, classified, or reported as containing any of the minerals subject to disposition under the general leasing law or acts amendatory thereof or supplementary thereto; to the Committee on Public Lands and Surveys.

By Mr. HARRISON:

A bill (S. 5260) granting the consent of Congress to the Board of Supervisors of Marion County, Miss., to construct a bridge across Pearl River; and

A bill (S. 5261) granting the consent of Congress to the Board of Supervisors of Monroe County, Miss., to construct a bridge across Tombigbee River; to the Committee on Commerce.

By Mr. GEORGE:

A bill (S. 5262) to amend subdivision (a) of section 1001 of the revenue act of 1926, as amended, with respect to review of certain decisions of the Board of Tax Appeals; to the Committee on Finance.

A bill (S. 5263) to amend section 201 of the emergency relief and construction act of 1932 to provide for certain loans by the Reconstruction Finance Corporation to aid in the support and maintenance of public schools; to the Committee on Banking and Currency.

By Mr. HASTINGS:

A bill (S. 5264) to correct the naval record of John Joseph Collins; to the Committee on Naval Affairs.

By Mr. JOHNSON:

A bill (S. 5265) granting a pension to Robert E. McCann; to the Committee on Pensions.

By Mr. DAVIS:

A bill (S. 5266) granting a pension to Henrietta V. W. Owen; to the Committee on Pensions.

By Mr. SCHUYLER:

A joint resolution (S. J. Res. 221) authorizing the Secretary of Agriculture to suspend, reduce, remit, release, or postpone the payment of grazing fees; and

A joint resolution (S. J. Res. 222) providing for extension of time of payment of notes given to procure loans for seed by borrowers in regions affected by drought; to the Committee on Agriculture and Forestry.

By Mr. GEORGE and Mr. COHEN:

A joint resolution (S. J. Res. 223) establishing the United States Georgia Bicentennial Commission, and for other purposes; to the Committee on the Library.

FIVE-DAY WEEK AND SIX-HOUR DAY

Mr. BLACK. Mr. President, I desire to introduce a bill and ask that it may be referred to the Committee on the Judiciary; but since the bill relates to interstate commerce I have thought that it would be better to have it read, as it is very short. I am asking that it be referred to the Committee on the Judiciary by reason of the fact that certain legal questions will be raised.

The VICE PRESIDENT. Is there objection to reading the bill?

There being no objection, the bill (S. 5267) to prevent interstate commerce in certain commodities and articles produced or manufactured in industrial activities in which persons are employed more than five days per week or six hours per day was read the first time by its title and the second time at length, as follows:

Be it enacted, etc., That no article or commodity shall be shipped, transported, or delivered in interstate or foreign commerce which was produced or manufactured in any mine, quarry, mill, cannery, workshop, factory, or manufacturing establishment situated in the United States in which any person was employed or permitted to work more than five days in any week or more than six hours in any day: *Provided*, That this section shall not apply to commodities or articles produced or manufactured before the enactment of this law.

SEC. 2. Any person who ships, transports, or delivers, or causes to be shipped, transported, or delivered in interstate commerce, any commodities or articles contrary to the provisions of section 1 of this act shall be punished by a fine of not less than $200 or by imprisonment for not more than three months, or by both such fine and imprisonment, in the discretion of the court.

The VICE PRESIDENT. Without objection, the bill will be referred to the Committee on the Judiciary.

BANKING ACT—AMENDMENTS

Mr. METCALF submitted three amendments intended to be proposed by him to the bill (S. 4412) to provide for the safer and more effective use of the assets of Federal reserve banks and of national banking associations, to regulate interbank control, to prevent the undue diversion of funds into speculative operations, and for other purposes, which were ordered to lie on the table and to be printed.

AMENDMENT TO TREASURY AND POST OFFICE DEPARTMENTS APPROPRIATION BILL

Mr. NYE submitted an amendment providing that $300,000 of the sum of $19,000,000 appropriated for the inland transportation of mail by aircraft, under contract as authorized by law, etc., be expended for extending air mail service from Mandan and Bismarck, N. Dak., to Helena, Mont., intended to be proposed by him to House bill 13520, the Treasury and Post Office Departments appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

MESSAGE FROM THE HOUSE—ENROLLED BILL SIGNED

A message from the House of Representatives by Mr. Haltigan, one of its clerks, announced that the Speaker had affixed his signature to the enrolled bill (S. 1863) to authorize and direct the transfer of Widow's Island, Me., by the Secretary of the Navy to the Secretary of Agriculture for administration as a migratory-bird refuge, and it was signed by the Vice President.

MERGER OF DISTRICT STREET-RAILWAY CORPORATIONS

The Senate resumed the consideration of the motion of Mr. AUSTIN that the Senate proceed to the consideration of the joint resolution (H. J. Res. 154) to authorize the merger of street-railway corporations operating in the District of Columbia, and for other purposes.

Mr. AUSTIN. Mr. President, I wish to submit a request for unanimous consent after making a brief statement to the Senate regarding the pending motion.

Over night a tentative agreement was entered into between all the parties interested in the pending merger joint resolution, agreeing in principle upon all points. They are now at work setting up the language of the agreement or proposal. The distinguished Senator from Wisconsin [Mr. BLAINE], who has the floor, and myself and other members of the committee require some time in which to consider the proposal when reduced to writing.

Therefore I ask unanimous consent that upon the conclusion of business to-day the Senate take a recess until 12 o'clock meridian to-morrow, with the pending motion to proceed to the consideration of the merger joint resolution as

the unfinished business to be taken up on the reconvening of the Senate to-morrow.

Mr. COPELAND. Mr. President, I realize how anxious Senators are to have the business of the country go forward. We have had pending before this body for 10 years that I know of the question of a merger of the street-car lines of the District of Columbia. At last it seems that all parties in interest are agreed, but there is certain language that must be formulated. It will take a few hours this afternoon to complete the amendments to the measure.

It is my opinion that we shall gain time if we agree to the request of the Senator from Vermont and let the matter go over until to-morrow. It is my opinion that at that time we may have before us a measure which will protect the interests of the people of the District and at the same time satisfy those who have been pressing for the merger legislation.

Mr. BARKLEY. Mr. President, it is not proposed that we shall recess now until to-morrow?

Mr. COPELAND. I do not so understand. The request was that a recess be taken at the conclusion of business to-day.

Mr. ROBINSON of Arkansas. Mr. President——

The VICE PRESIDENT. Does the Senator from New York yield to the Senator from Arkansas?

Mr. COPELAND. Certainly.

Mr. ROBINSON of Arkansas. It appears there is no important legislation with which the Senate is ready to proceed at this time. I think it unfortunate that we should apparently be wasting time. In a sense the decks were cleared for the disposition of the measure known as the street-car merger joint resolution, and yesterday the Senate took a recess at an early hour in order to enable those especially interested in the subject to reach an agreement, if possible.

Of course, nothing would be advanced by insisting upon proceeding with the merger joint resolution when it is apparent that an agreement is about to be reached. I do not know of any and I have not been informed of any legislation of any very great consequence that is ready to be taken up. That is exceedingly regrettable.

Mr. BARKLEY. Mr. President, if the Senator will yield, let me say that I concur in that viewpoint. Everybody understands that when we met at this session it was the hope that certain important legislation would be enacted that might obviate the necessity of an extra session of Congress. The Senate is not responsible for the fact that it has no important legislation on the calendar at this time; but it is unfortunate that we are to take a recess on Friday, as I understand, until the 3d day of January, and that all we have done since we have met here is to pass the Philippine bill. We have not dealt at all with any domestic problems. I am not attempting to say that anybody particularly is to blame for that, but it is regrettable that we have not been able to do more in the way of legislation for our domestic affairs than we have been able to accomplish at this session.

Mr. ROBINSON of Arkansas. I concur in that statement. I do not object to the request of the Senator from Vermont. Other Senators desire to bring forward measures, but my information is they can not be speedily disposed of, and they are all relatively unimportant.

Mr. CAPPER. Mr. President——

The VICE PRESIDENT. Does the Senator from Arkansas yield to the Senator from Kansas?

Mr. ROBINSON of Arkansas. I yield to the Senator from Kansas.

Mr. CAPPER. There is one measure on the calendar which has been there for some time, and which I understood could be taken up to-day. I refer to Senate bill 97, being Calendar No. 463, known as the fair trade bill. I am anxious to see it brought to a vote at the earliest moment.

Mr. ROBINSON of Arkansas. The Senator well knows that there is much division of opinion concerning the measure he proposes to take up and that there is no possibility of disposing of it prior to the time when the merger joint resolution will come back before the Senate to-morrow.

I think we are all cooperating to bring forward important measures as fast as possible. Such measures can not be worked out immediately. It is important that the committees vested with jurisdiction have an opportunity of considering the details of proposed legislation and some additional time undoubtedly will be required before bills of first importance can be brought forward.

There has been, so far as I know, no complete arrangement with respect to our holiday recess. The Senator from Oregon [Mr. McNARY] and I think the Senator from Indiana [Mr. WATSON] and I have tentatively agreed that the Senate may take a recess, in effect from next Friday evening, December 23, until Tuesday, the 3d of January, with the understanding that the House may proceed with its work at its pleasure and that the Senate may be in recess for three days at a time until it is ready to take up important business. What I wish to impress is the importance of getting measures of primary significance out of the committees and before the Senate as soon as possible. The calendar has been sifted over and over until it appears there is nothing on the calendar that can be disposed of under unanimous consent; it will require a motion. I do not, of course, object to any Senator making a motion when he can get the floor for that purpose.

Mr. CAPPER. That is what I had in mind.

Mr. COPELAND. Mr. President, I myself can see no objection to the Senator from Kansas presenting his argument on the Capper-Kelly bill, but I think it would be most unfortunate if we did not agree to the unanimous-consent request proposed by the Senator from Vermont.

Mr. ROBINSON of Arkansas. I do not wish to be understood as raising any objection to that request. I consent to it because I believe that it will promote a decision respecting the so-called merger joint resolution. Senators representing both sides of the controversy have stated to me privately that they confidently expect an agreement in time to proceed with the measure to-morrow. If that be true, certainly it would be a waste of time to proceed with its discussion to-day.

The VICE PRESIDENT. The Chair would like to suggest that the unanimous-consent agreement be modified. He doubts that the motion by unanimous consent can be made the unfinished business. Therefore the request should be modified so as to provide that the consideration of the motion shall be continued to-morrow morning.

Mr. ROBINSON of Arkansas. My understanding was that was the request.

The VICE PRESIDENT. The request includes making the motion the unfinished business. I think that part ought to be stricken out, and that it should be in the form of a request that the motion to proceed to the consideration of the measure be taken up again to-morrow morning.

Mr. ROBINSON of Arkansas. I am sure the Chair is correct, but the merger bill will be the unfinished business when its consideration is resumed under the agreement.

Mr. BLAINE. Mr. President, I desire to state that I concur in the request of the Senator from Vermont. I think the granting of his request will be in the interest of expedition of legislative business, and I hope that the request will be granted.

The VICE PRESIDENT. Is there objection to the modified request?

Mr. BORAH. Mr. President, if the request be granted, will it interfere with the effort of the Senator from Kansas to bring up the bill to which he has referred?

The VICE PRESIDENT. It will not if the Senator from Kansas shall be recognized and shall make the motion.

Mr. CAPPER. I want to make that motion as soon as it is proper to present it.

The VICE PRESIDENT. The Chair will try to recognize whoever may be first on his feet.

Mr. CAPPER. I am in favor of the motion made by the Senator from Vermont temporarily to lay aside the motion now pending. Then I want to make a motion to proceed to the consideration of Senate bill 97.

The VICE PRESIDENT. The Chair will inquire if the Senator from Vermont modifies his request by striking out the words "the unfinished business"?

Mr. AUSTIN. Yes, Mr. President.

The VICE PRESIDENT. Is there objection to the modified request for unanimous consent submitted by the Senator from Vermont? The Chair hears none, and the unanimous-consent agreement, as modified, is entered into.

PROPOSED NATIONAL POLICY COMMITTEE OF THE SENATE

Mr. THOMAS of Oklahoma. Mr. President, I ask unanimous consent to present, out of order, a Senate resolution, and, pending the presentation of the resolution, I ask unanimous consent to use just two or three minutes in explanation of the conditions which suggest the resolution.

The VICE PRESIDENT. Is there objection? The Chair hears none, and the Senator is recognized.

Mr. THOMAS of Oklahoma. I regret that conditions, known to all, impel me to make this statement and to suggest a course of action.

A pestilence, charitably called a depression, has been with us for more than three years, and, in my opinion, is growing worse day by day. In December of 1930, more than two years ago, I proposed by resolution the creation of a special committee to be composed of the admitted leaders of the Senate to deal with the causes of our troubles and to suggest relief for our people; but after debate the Senate answered by saying that there was no depression, hence no occasion for such a committee.

Now, after three years of personal, industrial, and economic famine the President says that we are suffering from the worst depression in history.

What are the conditions to-day? Millions are unemployed; hunger and suffering are widespread; the people can not pay their taxes; money has ceased to circulate; trade and barter have been revived; defaults and foreclosures grow in number; the business index continues to fall; deflation is unchecked, and as the value of the dollar goes up, thereby placing unearned value in the hands of those who do not work, prices of all kinds come down, thereby taking the savings from the pockets of those who toil.

The people have just passed judgment on present conditions. This judgment defeated a President, wrecked an administration, and injured, if it did not destroy, a political party.

It is alleged by some that this depression has already bankrupted the greatest, strongest, and richest nation of the earth; and amidst this wreckage bankers, business men, and some Senators will not even listen.

We are now in the third week of the last session of the Seventy-second Congress. What has been done, what is being done, and what is proposed to be done to help the people?

In one branch of the Congress time is being consumed in an effort to relieve the people by providing for them what has been aptly called "dog wash."

In the Senate the first two weeks were devoted to debate over our attitude toward a people some 7,000 miles away and a generation in the future; and now, while millions freeze and starve, we are debating whether we will permit the merger of two ancient transportation systems here in the District of Columbia.

Some Senators and Congressmen may philosophize that they did not bring about present conditions, and some may not be conscious of any special responsibility resting upon them for trying to end the depression and bringing about relief for existing distress.

Mr. President, who or what governs the United States? Who or what makes our policies? Who or what levies the taxes, allocates expenditures, makes the chart and plats the course the ship of state is to travel?

In making of the Constitution the legislative branch was placed first, and 65 per cent of the text was devoted to the powers and duties of what must have been considered the most important branch of the Government. The balance of the text, 35 per cent, was divided among the executive, the judiciary, and the special powers of the Government. If under the Constitution the legislative branch is the real governing power, then there is no escaping the conclusion that the Congress is responsible for the conditions existing to-day.

In one branch of the Congress three Members—the Speaker, the majority leader, and the chairman of the Rules Committee—have power to make a program, and then to bring forth such program at will, for the consideration of the body.

In the Senate we have no such centralization of power. Of course, a majority, in time, can always act; but to-day we have no majority, and while the people freeze and starve the Senate drifts.

Long experience has demonstrated that the Senate can act efficiently only through committees. In great emergencies, if not at all times, the Senate needs an additional committee, a committee in which, during times like the present, may be centralized the power and the responsibility of the Senate.

Because of rapid means of transportation and communication the world has become relatively small; because of our increased interest in and dependence upon world affairs our Government must be always ready to meet any emergency; and because of the centralization of the Government at Washington we must have some competent and continuing tribunal always organized and always planning for the best interests of our country.

Presidents come and Presidents go. One House of the Congress comes into existence, lives two years, and then passes away. The Senate was organized and came into being some one hundred and fifty years ago, and still lives. Our organization, supported by two-thirds of our membership, is always alive, and will continue to live so long as our Government endures.

Mr. President, the growth of our country and the condition of the times make mandatory the creation of a new, permanent, and standing committee of the Senate. I propose, by resolution, the creation of such a committee, to be known as the national policy committee.

I present such a resolution and ask that it be read for the information of the Senate and that it may lie on the table.

The resolution (S. Res. 308) was read and ordered to lie on the table, as follows:

Resolved, That a permanent standing committee of the Senate be created as follows:

Such committee to be designated national policy committee, and to consist of the 11 members as follows:

The majority leader, who shall be chairman.
The minority leader.
The chairman of the Committee on Finance.
The ranking minority member of Committee on Finance.
The chairman of the Committee on Appropriations.
The ranking minority member of Committee on Appropriations.
The chairman of the Committee on Foreign Relations.
The ranking minority member of the Committee on Foreign Relations.
Three members to be elected by the Senate.

The jurisdiction of the national policy committee shall embrace such bills, resolutions, and matters as may be by the Presiding Officer referred to it, and such committee shall have power to prepare and propose bills and resolutions, and to make recommendations upon any subject within its discretion.

PROPOSED FAIR-TRADE LEGISLATION

Mr. CAPPER. I now move that the Senate proceed to the consideration of Senate bill 97, being Calendar No. 463.

The VICE PRESIDENT. Let the bill be reported by title.

The CHIEF CLERK. A bill (S. 97) to protect trade-mark owners, distributors, and the public against injurious and uneconomic practices in the distribution of articles of standard quality under a distinguishing trade-mark, brand, or name.

The VICE PRESIDENT. The question is on the motion of the Senator from Kansas, which is subject to debate.

Mr. COUZENS. Mr. President, I inquire what will be the status of this bill if the motion shall be agreed to?

The VICE PRESIDENT. If it should be discussed the remainder of the day, and an adjournment then be taken, it would become the unfinished business, subject to be laid aside to-morrow morning under the unanimous-consent

agreement to consider the proposed merger joint resolution; and on the disposition of that question, the bill would again come up.

Mr. COUZENS. Mr. President, I think that is a very unsatisfactory parliamentary situation. This bill went to the Committee on Interstate Commerce, which held very extensive hearings on the measure. Following the conclusion of the hearings, the committee, in executive session, took the bill up for consideration and, if I recall correctly, there was only one vote in the committee to report it favorably. All the other members of the committee were opposed to it, but out of consideration for some members of the committee it was agreed to report the bill without recommendation, either affirmatively or negatively. Obviously, Mr. President, this bill can not become a law at this session of Congress; obviously it will take days and days to debate it, because it is a very controversial bill, and the wisdom of its enactment is very much in question. Therefore, if this bill should become the unfinished business at any time during this session, and it should be insisted upon that no other legislation should take its place, I venture to say that our legislative program will be blocked. I hope, Mr. President, for that reason, that the Senate will not, in any sense, make the measure the unfinished business.

Mr. BORAH. Mr. President, does the Senator from Michigan yield the floor?

Mr. COUZENS. I yield the floor.

Mr. BORAH. Mr. President, the bill could be displaced at any time by a vote of the majority of the Senate, and I do not see why the Senator from Kansas should not be permitted to go forward with the measure, in view of the fact that no other Senator has anything else to propose. It is true that it is a controversial question, but I do not know why we should not begin the controversy to-day if it is the only matter to be dealt with, and, as I have said, we can displace it at any time when the Senate desires to do so.

Mr. WATSON. Mr. President——

The VICE PRESIDENT. Does the Senator from Idaho yield to the Senator from Indiana?

Mr. BORAH. I yield the floor.

Mr. WATSON. Mr. President, the Senator from Michigan is quite correct in his recital of events so far as the committee is concerned, and it is my judgment, I will say to my friend from Kansas, in the interest of his bill, that he had better endeavor to bring it up at a time when it will be possible to have something in the nature of continuous discussion. If he brings it up to-day, it can only run during the day, in the ordinary course of events; and if an adjournment is to be taken on Friday, he would have scant time in which to discuss it at all, and then it will be set aside from time to time by other measures. So I think it would be better for the Senator to wait and not bring it up to-day in the condition in which the Senate now finds itself. I think it would be better to bring it up after the recess, at a time when there may be something in the nature of continuous discussion of the measure.

Mr. BORAH. What has the Senator from Indiana proposed to take up the time of the Senate to-day?

Mr. WATSON. There is nothing. The Senator from Oregon had a bill that he was very anxious to bring up to-day, but he is ill at home and can not be here. There was another bill which a Senator on the other side—I think the Senator from Wyoming [Mr. KENDRICK]—wanted to bring up; but that bill, I understand, is not now ready.

Mr. ROBINSON of Arkansas. Mr. President, will the Senator yield?

Mr. WATSON. Yes.

Mr. ROBINSON of Arkansas. The Senator from Wyoming has a bill that he was anxious to bring forward, but like the merger joint resolution, there are negotiations in progress which it is thought may result in speeding a conclusion respecting that measure when it is brought forward, so that it is not ready.

Now, if I may make the suggestion to the Senator from Idaho, the pending question is the motion of the Senator from Kansas to proceed to the consideration of Senate bill 97. I understand under the present parliamentary status he is at liberty to discuss that motion at this time, but I concur in what has been said by the Senator from Michigan [Mr. COUZENS]. This bill was reported by the Committee on Interstate Commerce without recommendation. Manifestly that was merely a process by which the committee absolved itself of its normal responsibility and "passed the buck" back to the Senate. I make no criticism of its action, if it was unable to reach an agreement touching the measure; but the Senate is really, as I see it, entitled to an expression of opinion on the part of the committee, having referred the bill to the Committee on Interstate Commerce.

I shall vote against the motion to proceed to the consideration of the bill because as I understand it I am against the bill. I have no objection to a discussion of the bill, which, as has been stated, is permissible under the procedure prevailing in the Senate, but I am satisfied there is no possibility of reaching a conclusion in this matter very quickly.

Mr. VANDENBERG. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. VANDENBERG. Is there not an agreement to proceed with the Glass banking bill, S. 4412, when the Senate reconvenes in January?

The VICE PRESIDENT. It was made a special order for the 5th day of January.

Mr. VANDENBERG. Then, under the existing situation in which we find ourselves, we will take up the Capper-Kelly bill to-day, lay it aside to-morrow for the merger, recess, reconvene, take up the Capper-Kelly bill for one day, and then proceed with the Glass banking bill?

The VICE PRESIDENT. The Chair will state that under the rules the unfinished business would have precedence over the special order, and the special order would not come up until the unfinished business was disposed of.

Mr. VANDENBERG. Mr. President, a parliamentary inquiry supplemental to the one previously made.

The VICE PRESIDENT. The Senator will state it.

Mr. VANDENBERG. Is it, then, the Chair's ruling that the adoption of the motion made by the Senator from Kansas would postpone consideration of the Glass banking bill under the special order if the Capper-Kelly bill should not be out of the way on January 5?

The VICE PRESIDENT. Unless displaced by motion. That is the rule of the Senate.

Mr. KING. Mr. President, will the Senator yield?

Mr. CAPPER. I yield.

Mr. KING. I desire to make just one observation. The taking of a recess to-day does not mean that legislation will be postponed. A number of committees are in session, or will be; and, as Senators know, during discussions when bills are under consideration a large number of the Senators, frequently a great majority, are at work in committee rooms upon measures there pending. It is important that the measures now before the various committees be reported as early as possible.

Speaking for myself, and I think for the Senator from Kansas, we have before the District Committee a number of measures that ought to receive consideration. I am sure that if we should take a recess it would expedite the consideration of measures that are pending before the committees and bring them to the bar of the Senate at a much earlier date than they would be brought to our attention if we did not have the recess.

Mr. CAPPER. Mr. President, there is widespread interest in this measure. It has been on the calendar for months, and I have been trying very hard to get consideration of it.

Regardless of the judgment of the Committee on Interstate Commerce, which had the bill before it and voted to report the bill without recommendation, I think a large number of Senators—I believe a majority of the Senators—are at this time favorable to the passage of the bill. I think it ought to have consideration. I think it ought to be brought before this body without further delay that we may

have a discussion of the merits of the bill and then bring the question to an issue.

I shall not insist on pressing the matter at this time if I can have some assurances from the Senator from Indiana [Mr. WATSON] and the Senator from Arkansas [Mr. ROBINSON] that the measure will have a chance. I should like to have some assurances along that line.

Mr. BORAH. Mr. President, of course, the Senator can not get any assurance of that, because when we come back here on the 5th of January we will have the appropriation bills and other matters before us, and I think it will be impossible.

I am not particularly concerned about the matter. I know that a great many people are interested in this measure, whether it is wise or unwise; and, in view of the fact that we have nothing else to do to-day, I thought perhaps we might occupy the time by discussing it.

Mr. COUZENS. Mr. President, will the Senator from Kansas yield to me?

Mr. CAPPER. I yield.

Mr. COUZENS. I should like to suggest to the Senator from Kansas that he go ahead and present his case on his motion to take up the bill, and when he is through I will proceed to discuss the other side of the matter, and we will get the case before the Senate just as fully as though the pending motion were agreed to. I do not think that is an unusual practice. I should like to hear the Senator from Kansas.

The VICE PRESIDENT. Under the rule, a motion to take up a bill is debatable after 2 o'clock.

DISPOSAL OF SURPLUS NAVY SUPPLIES

Mr. SHORTRIDGE. Mr. President——

The VICE PRESIDENT. Does the Senator from Kansas yield to the Senator from California?

Mr. CAPPER. I yield.

Mr. SHORTRIDGE. I ask that by unanimous consent the Senate take up for immediate consideration Senate Joint Resolution 220, authorizing the Secretary of the Navy to sell obsolete and surplus clothing at nominal prices for distribution to the needy.

The VICE PRESIDENT. Does the Senator from Kansas yield for that purpose?

Mr. CAPPER. I yield to the Senator from California for that purpose, with the understanding that the measure will not lead to controversy.

The VICE PRESIDENT. The joint resolution has not been reported, so the Chair is advised.

Mr. SHORTRIDGE. A copy of the joint resolution is on the desk. I ask that it be reported.

The VICE PRESIDENT. Does the Senator from California desire to report the joint resolution?

Mr. SHORTRIDGE. I certainly do. I thought it had been reported yesterday.

The VICE PRESIDENT. The report will be received and go to the calendar.

The CHIEF CLERK. The Senator from California reports back favorably, without amendment, Senate Joint Resolution 220, authorizing the Secretary of the Navy to sell obsolete and surplus clothing at nominal prices for distribution to the needy.

Mr. SHORTRIDGE. I now ask unanimous consent for the immediate consideration of the joint resolution.

The VICE PRESIDENT. Does the Senator from Kansas yield for that purpose?

Mr. CAPPER. I yield.

The VICE PRESIDENT. Is there objection to the present consideration of the joint resolution?

Mr. ROBINSON of Arkansas. Mr. President, may I ask the Senator from California if this is a relief measure?

Mr. SHORTRIDGE. Yes, Mr. President.

Mr. ROBINSON of Arkansas. Why is a nominal charge made?

Mr. SHORTRIDGE. I will answer his question, if the Senator will permit me, by reading a letter addressed to the Committee on Naval Affairs by the Navy Department.

Mr. ROBINSON of Arkansas. I thought perhaps the Senator could answer the question without reading letters.

Mr. SHORTRIDGE. From experience of the War Department—the Secretary of War having the same power that we seek to give to the Secretary of the Navy—it has been found that a nominal charge results in a more equitable disposition of the surplus or obsolete articles referred to, the nominal charge to be fixed by the Secretary, and the distribution of the articles to be made without any charge whatever to the recipients. From experience, it was thought that it would be wise to make a nominal charge, so that different organizations might present their claims the better, and receive the more equitable distribution of the goods referred to in the joint resolution.

Mr. ROBINSON of Arkansas. Mr. President, I can not understand why the imposition of a "nominal charge," as it has been termed, would promote the more equitable distribution of the charity. That is the point about which I am inquiring. Why is that true? What will be done with the proceeds of the sales of these articles?

Mr. SHORTRIDGE. Ultimately, they will be covered into the Treasury of the country.

Mr. ROBINSON of Arkansas. How is it that to sell them for a mere nominal amount will promote their better distribution?

Mr. SHORTRIDGE. Frankly, I put the very same question to a gentleman from the Navy Department, and the only explanation I could receive was the one I have briefly stated. He replied by saying that to charge a nominal amount would result in a more equitable distribution. I said, "How is that? Why is that so?" Then he gave me the experience of the War Department, that they had so found, and that that was the rule in that department.

Frankly, to repeat myself, I can not see the force of that objection; but, inasmuch as they have insisted upon it and urged it, I have yielded to their view.

Mr. SWANSON. Mr. President——

The VICE PRESIDENT. Does the Senator from Kansas yield to the Senator from Virginia?

Mr. CAPPER. I do. I assume that this will not lead to controversy.

Mr. SWANSON. No, Mr. President.

As I understand, a nominal charge is made to pay the expenses of distribution. My understanding is—I may be mistaken about it—that the Navy Department has no money to pay for the distribution of these articles throughout the entire country; and it was thought that the people in Arkansas, the people in Virginia, and the people in other sections should have the expense of transportation paid, so that they could have a distribution equal to that of the people located immediately where the supplies are. The experience of the Army was that in the absence of such an arrangement the supplies were taken entirely by the people of the section where the supplies were.

Mr. ROBINSON of Arkansas. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from Kansas yield to the Senator from Arkansas?

Mr. CAPPER. I do.

Mr. ROBINSON of Arkansas. The Senator from California [Mr. SHORTRIDGE], in answer to that question, stated that the proceeds of the sale were to be covered into the Treasury. That would contradict the statement of the Senator from Virginia that the proceeds were to be used to pay the expenses of distribution.

Mr. SWANSON. No; they will simply put on a nominal charge which will cover the expenses of transportation, so that people in the middle section of the country can get as much of these supplies as the people in the immediate locality where the supplies are.

As I understand, there is no appropriation to pay for the distribution of these supplies to the country, and it was thought that all sections of the country should have equal opportunities to obtain the supplies and that a merely nominal charge which will about cover the expenses of

transportation should be made. If we want these articles to go free, and let them be distributed to people who will come after them and who have not any funds to pay the transportation express and expenses of distributing them, I have no objection. The nominal charge is simply to cover that, as I understand.

The VICE PRESIDENT. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution, which was read, as follows:

Resolved, etc., That the Secretary of the Navy is hereby authorized, under such regulations as he may prescribe, to sell, at nominal prices, to recognized charitable organizations, to States and subdivisions thereof, and to municipalities, such nonregulation and excess clothing as may be available and required for distribution to the needy.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. SHORTRIDGE. I ask unanimous consent to have printed in the RECORD two letters bearing on this subject—one from the Paymaster General of the Navy and the other from the chairman of an American Red Cross chapter of Lake Providence, La.—and a list of the clothing to be disposed of.

There being no objection, the matter referred to was ordered to be printed in the RECORD, as follows:

NAVY DEPARTMENT,
BUREAU OF SUPPLIES AND ACCOUNTS,
Washington, D. C., December 19, 1932.

Subject: Recommendation for legislation to permit sale of obsolete and surplus clothing at nominal prices to charitable organizations.

CHAIRMAN SENATE COMMITTEE ON NAVAL AFFAIRS,
United States Senate, Washington, D. C.

SIR: There is on hand at the naval supply depot, Brooklyn, N. Y., a considerable quantity of nonregulation and excess clothing, which is not required for the Navy's needs but would be of value in caring for the needy, if authority existed for its sale at nominal prices and without competition. At the request of the Navy Department House Joint Resolution 500, dated December 10, 1932, was introduced by Mr. VINSON of Georgia. The following is a copy of this resolution:

"Joint resolution authorizing the Secretary of the Navy to sell obsolete and surplus clothing at nominal prices for distribution to the needy

"*Resolved, etc.*, That the Secretary of the Navy is hereby authorized, under such regulations as he may prescribe, to sell at nominal prices to recognized charitable organizations, to States and subdivisions thereof, and to municipalities such nonregulation and excess clothing as may be available and required for distribution to the needy."

The War Department disposed of quantities of excess clothing last winter at nominal prices to charitable organizations, with the stipulation that the clothing should be given away absolutely free to destitute and needy persons. It was found by experience of the Army that it was advisable to charge a nominal price for the clothing to charitable organizations in order to distribute properly among different organizations the excess clothing. This nominal price is about 10 per cent of the cost, as shown on the attached table.

The attention of the chairman is invited to the fact that the essence of this joint resolution is that the clothing be available for distribution to the destitute and needy as soon as possible. If the final passage of the joint resolution is not accomplished in the very near future, the winter season will have advanced so far that the benefit to destitute and needy persons will be greatly reduced. For this reason it is respectfully requested that the most expeditious action be taken on this resolution in order that the distribution can be commenced.

Respectfully,

J. J. CHEATHAM,
Paymaster General of the Navy.

EAST CARROLL PARISH CHAPTER,
AMERICAN RED CROSS,
Lake Providence, La., December 16, 1932.

Hon. FREDERICK HALE,
United States Senate, Washington, D. C.

MY DEAR SENATOR HALE: I saw in the newspaper a few days ago that the Secretary of the Navy has transmitted to the Congress a draft of a proposed joint resolution authorizing the Secretary of the Navy to sell obsolete and surplus clothing at nominal prices for distribution to the needy.

I understand that this resolution was referred to the Committee on Naval Affairs December 7. I want to ask you to do whatever you can for a prompt adoption of this resolution. This chapter has within its jurisdiction a large number of people who are in terribly bad circumstances, without work, without food, and without clothes. We want to try to procure some of this clothing as soon as we can, and for that reason I am appealing to you in this matter. Louisiana has no Senator on the Committee on Naval Affairs, and that is the reason I am writing to you. However, the Congressman from the first Louisiana district, Hon. J. O. FERNANDEZ, is a Member of the House Naval Affairs Committee, and I have written to him to-day on this same subject.

With all good wishes, I am, very sincerely yours,

J. M. HAMLEY, *Chairman.*

Clothing for sale

Article	Quantity	Present issue price	Total	Disposal price	Total
Drawers, heavy, cotton and wool, white	15,000	$1.00	$15,000.00	$0.10	$1,500.00
Gloves, wool, winterfield shade	13,000	.25	3,250.00	.05	650.00
Jerseys, wool, dark blue	75,000	2.60	195,000.00	.25	18,750.00
Jumpers, dungaree, blue denim	38,000	.85	32,300.00	.10	3,800.00
Overcoats, 30-ounce blue cloth, double breasted, knee length and short	84,500	7.26	613,700.00	.75	63,375.00
Raincoats, dark blue, waterproof	700	4.50	3,150.00	.35	245.00
Shirts:					
Blue flannel	300	4.50	1,350.00	.25	75.00
Chambray, cotton, blue	9,000	.50	4,500.00	.05	450.00
Shoes:					
Leather, black, high	47,000	3.55	167,000.00	.25	11,750.00
Leather, black, low	10,000	3.50	35,000.00	.25	2,500.00
Trousers, dungaree, blue denim	30,000	.95	28,500.00	.10	3,000.00
Undershirts, heavy, cotton and wool, white	7,000	1.00	7,000.00	.10	700.00
Total			1,105,750.00		106,795.00

MONONGAHELA RIVER BRIDGE, PITTSBURGH, PA.

Mr. VANDENBERG. From the Committee on Commerce I report back favorably, without amendment, Senate bill 5183, granting the consent of Congress to the Board of County Commissioners of Allegheny County, Pa., to construct, maintain, and operate a toll bridge across the Monongahela River between the city of Pittsburgh and the borough of Homestead, Pa., and I submit a report (No. 1009) thereon.

This is a bridge bill in the regular form. Two similar bridge bills in regular form were reported yesterday on behalf of the Senator from Georgia [Mr. GEORGE] and the Senator from Vermont [Mr. AUSTIN]. These measures are in the nature of preliminary steps in a make-work program. There is no controversy respecting them; and I ask for the present consideration of the bill just reported. Subsequently, I shall ask for the consideration of the other two bills.

The VICE PRESIDENT. Let the bill reported by the Senator from Michigan be read for the information of the Senate.

The bill (S. 5183) granting the consent of Congress to the Board of County Commissioners of Allegheny County, Pa., to construct, maintain, and operate a toll bridge across the Monongahela River between the city of Pittsburgh and the borough of Homestead, Pa., was read, considered by unanimous consent, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That the consent of Congress is hereby granted to the Board of County Commissioners of Allegheny County, Pa., to construct, maintain, and operate a toll bridge and approaches thereto across the Monongahela River, at a point suitable to the interest of navigation, between the city of Pittsburgh and the borough of Homestead, to replace what is known as the Brown Bridge, in accordance with the provisions of an act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906, and subject to the conditions and limitations contained in this act.

SEC. 2. If tolls are charged for the use of such bridge the rates of toll shall be so adjusted as to provide a fund sufficient to pay the reasonable cost of maintaining, repairing, and operating the bridge and its approaches under economical management, and to provide a sinking fund sufficient to amortize the cost of the bridge and its approaches, including reasonable interest and financing cost, as soon as possible under reasonable charges, but within a period of not to exceed 20 years from the completion thereof. After a sinking fund sufficient for such amortization shall have been so provided, such bridge shall thereafter be maintained and operated free of tolls, or the rates of toll shall thereafter be so adjusted as to provide a fund of not to exceed the amount necessary for the proper maintenance, repair, and operation of the bridge and its approaches under economical management. An accurate record of the costs of the bridge and its approaches, the expenditures for maintaining, repairing, and operating the same,

and of the daily tolls collected shall be kept and shall be available for the information of all persons interested.

SEC. 3. The right to alter, amend, or repeal this act is hereby expressly reserved.

LAKE CHAMPLAIN BRIDGE, ROUSES POINT, N. Y.

Mr. VANDENBERG. I make the same request in respect to Senate bill 5059.

The VICE PRESIDENT. The bill will be read for the information of the Senate.

The bill (S. 5059) to extend the time for completion of a bridge across Lake Champlain at or near Rouses Point, N. Y., and a point at or near Alburgh, Vt., was read, considered by unanimous consent, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That the time for completing the construction of a bridge across Lake Champlain at or near Rouses Point, N. Y., and a point at or near Alburgh, Vt., authorized to be built by Elisha N. Goodsell, of Alburgh, Vt., his heirs, legal representatives, and assigns, by an act of Congress approved February 15, 1929, is hereby extended three years from February 15, 1933.

SEC. 2. The right to alter, amend, or repeal this act is hereby reserved.

SAVANNAH RIVER BRIDGE, LINCOLNTON, GA.

Mr. VANDENBERG. I make the same request in respect to Senate bill 4972.

The VICE PRESIDENT. The bill will be read for the information of the Senate.

The bill (S. 4972) granting the consent of Congress to the State of Georgia to construct, maintain, and operate a highway bridge across the Savannah River near Lincolnton, Ga., and between Lincolnton, Ga., and McCormick, S. C., was read, considered by unanimous consent, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That the consent of Congress is hereby granted to the State of Georgia to construct, maintain, and operate a highway bridge and approaches thereto across the Savannah River at or near Lincolnton, Ga., and between Lincolnton, Ga., and McCormick, S. C., in accordance with the provisions of an act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906, and subject to the conditions and limitations contained in this act.

SEC. 2. The rates of toll shall be so adjusted as to provide a fund sufficient to pay the reasonable cost of maintaining, repairing, and operating the bridge and its approaches under economical management, and to provide a sinking fund sufficient to amortize the cost of the bridge and its approaches, including reasonable interest and financing cost, as soon as possible under reasonable charges, but within a period of not to exceed 20 years from the completion thereof. After a sinking fund sufficient for such amortization shall have been so provided, such bridge shall thereafter be maintained and operated free of tolls, or the rates of toll shall thereafter be so adjusted as to provide a fund of not to exceed the amount necessary for the proper maintenance, repair, and operation of the bridge and its approaches under economical management. An accurate record of the costs of the bridge and its approaches, the expenditures for maintaining, repairing, and operating the same, and of the daily tolls collected shall be kept and shall be available for the information of all persons interested.

SEC. 3. The right to alter, amend, or repeal this act is hereby expressly reserved.

The VICE PRESIDENT. The question now is on the motion of the Senator from Kansas [Mr. CAPPER].

PROPOSED FAIR-TRADE LEGISLATION

Mr. CAPPER. Mr. President, I rise to urge consideration of Senate bill 97, known as the fair-trade measure.

In the closing days before adjournment last July I gave notice that at this time I would, to the limit of my powers, press for immediate consideration of this bill. With full appreciation of such prominent questions as the farm problem, which is as close to my heart as to that of any other Member of this body, our Budget and taxation questions, and the attention they will receive here, I hold that we can not forever go on dealing with public matters on an emergency basis to the neglect of a great fundamental economic problem without inevitably breeding more emergencies later on.

The unfortunate stagnation of business and price deflation which now oppress the country are aggravated, prolonged, and rendered more difficult of solution by the omission of the very legislation which is offered in the bill for which I bespeak your consideration. Can anyone doubt, when 1,250,000 proprietors of the stores which constitute the backbone of the main streets of every village, town, and city in this country, state that they are hampered by deceptive cut-throat, competitive methods on the part of predatory chain stores, that the effect in the sum total is paralyzing the industry of the factories, from which they consequently buy less, thus throwing factory workers out of employment?

These independent retail store owners comprise 1,340,000 stores of a total of 1,550,000 in the United States, 87 per cent of all our merchants. They handle the bulk of all the goods made in all our factories. Across their counters the bulk of all our farm products find their way to consumers. This great body of merchants, through their representative national associations of grocers, hardware men, druggists, jewelers, and other leading lines of business have petitioned Congress year after year for relief ever since the Supreme Court, in the Miles case, in 1911, in the absence of definite legislation, declared what it considered our public policy ought to be, a 5-to-4 decision which Mr. Justice Holmes denounced at the time in a ringing dissenting opinion, and which Mr. Louis D. Brandeis, before going upon the Supreme Court bench, characterized as an unfortunate, inadvertent decision, which should be corrected by the regularly constituted law-making department of the Government. This can be done through the passage of Senate bill 97.

The chief objective of the bill is to restore the equality of opportunity for the smaller business man in his competition with the big corporation. We simply make it permissible for the owner or producer of branded goods to enter into agreement with his distributors that his name or his brand shall not be made the cat's paw to pull trade away from his many smaller dealers by using his goods as loss leaders or bargain bait.

The bill proposes to restore to producers and distributors the liberty of contract of which they were deprived in 1911 by a 5-to-4 decision of the United States Supreme Court in the Doctor Miles medicine case. It is a right enjoyed by the business men of all other countries.

The bill attempts to stop cut-throat practices that are uneconomic and destructive to legitimate business. It is a step forward in the direction of fair competition.

In 1925, during the Sixty-ninth Congress, the bill known as the fair trade bill, to legalize resale price agreements, was introduced by myself in the Senate and by Representative CLYDE KELLY, of Pennsylvania, in the House of Representatives.

In 1926, the Committee on Interstate and Foreign Commerce in the House held extensive hearings at which abundant opportunity was given to proponents and opponents.

As a result of these hearings a subcommittee was appointed to make a careful study of this important business problem. This subcommittee, in 1927, reported that such legislation is in the public interest and should be enacted.

In 1929 the Committee on Interstate and Foreign Commerce again considered the bill, and on January 27, 1930, made a favorable report urging that prompt action be taken.

The Rules Committee of the House made the bill a special order, and it was passed by the House of Representatives with amendments on January 29, 1931.

The Senate found it impossible to act during the short period before adjournment on March 4.

The measure was reintroduced on the first day of this Congress. The Interstate Commerce Committee of the Senate held hearings early in the session and reported the bill to the calendar. Surely there should be no further delay in acting. For 10 years at least there has been need for its enactment, but no action has been taken. During that period at least 400,000 independent merchants have been destroyed by the predatory competition this measure seeks to prevent.

This measure is intended to protect the manufacturer, the retailer, and the consumer against the predatory and deceptive price cutter who advertises to sell a nationally known article of merchandise at less than its retail value, frequently less than cost, as "bait" to catch consumer trade.

Of course, the predatory price cutter does not intend to allow the customer to escape with goods purchased at less-than-cost prices. He expects to sell him other goods at good prices, frequently at higher prices.

The "bait" is sacrificed to catch the consumer's interest.

The "bait" also is sacrificed for the purpose of getting customers away from a competitor.

Predatory price cutting deceives the customer; it is used unfairly to ruin competitors. It destroys the value of the nationally advertised and nationally known article used as bait.

It is being used to drive the home-town merchant out of business by the chain stores, and tends to national monopolies that concentrate wealth in the big centers.

In its baleful effects and malevolent designs predatory price cutting is even worse than the racketeering which collects a percentage from the merchant under threat of violence. For the racketeers must leave their victims enough profit to keep them in business. The predatory price cutter, through cutthroat competition, aims to kill competition and competitors entirely. Then the consumer will be at his mercy.

For a number of years—more than a decade now—there has been a constantly growing nation-wide protest against the cutthroat competitive practice of certain great merchandising corporations in advertising standard, trademarked products at ruinous prices in order to delude the buying public into believing that all goods are sold at the same bargain prices.

We know that this can not be true. No merchant can do business at a loss and remain long in business. He must sell at a profit.

So long as we have competition, that competition will keep profits down to a reasonable basis and protect the consumer as well as allow the business to live and profit.

Destroy competition and the consumer is left at the mercy of the survivor. The destroyed competitor joins the economic bread line.

Before going farther there is a point I wish to make plain; a point that has been more or less lost sight of.

There are those, without a complete understanding of the history of merchandising in this country, who regard the Capper-Kelly fair trade bill as a revolutionary measure. They honestly believe it is a departure in business practice; something that will overturn an established policy of American business built up through decades of development.

This is not true. Exactly the opposite is true. Enactment of the fair trade bill will reestablish a sound principle of retail merchandising which was in effect up until 1911, when the United States Supreme Court, in the Miles case, declared resale-price contracts invalid.

The rapid growth of this monopolistic practice of predatory price cutting of standard articles—used merely as bait or for the purpose of ruining a competitor by unfair means—dates from this Miles decision.

Now, the simplest, least expensive way of ending unfair price competition on standard goods is through a free contract between the manufacturer of such goods and his distributors. Until the Doctor Miles Medical Co. decision this was the method which had been declared valid by the Federal courts.

However, the Miles decision declared that such a contract was in violation of the Sherman antitrust law. That decision started a period of jungle competition which has lasted until the present time.

Dating from the Doctor Miles decision, great distributing combinations—the chain stores and some large department stores in the great cities—have been growing like mushrooms and are having, in my judgment, a menacing effect upon the business and social life of America.

In so far as they thrive on predatory price cutting on standard goods they are endangering honest business. They are destroying the independent retailer, the home-town business man.

The independent business man is not entitled to special favors. But he is entitled to a fair field. He is entitled to protection against unfair competition, as a matter of sound public policy. He should be able to protect himself against price-cutting profiteers.

The independent business man, whose numbers have been reduced from 1,600,000 to something over 1,300,000 in the last two decades, is not getting a square deal under present conditions. He is being destroyed by unfair competition, by huge combinations, by the chain stores, by predatory business methods, including predatory price cutting which the Capper-Kelly bill seeks to end.

The Supreme Court of the United States did not hand down a unanimous decision in the Miles case. Mr. Justice Holmes had a clearer vision of the economic problem involved than a majority of the court. Justice Holmes, in his dissenting opinion, said:

> I can not believe that in the long run the public will profit by this course, permitting knaves to cut reasonable prices for mere ulterior purposes of their own, and thus to impair, if not destroy, the production and sale of articles which it is assumed to be desirable the people should be able to get.

Justice Louis Brandeis, of the United States Supreme Court, when a member of the Massachusetts bar, made the following significant statement as to the general policy of predatory price cutting:

> Americans should be under no illusions as to the value or effect of price cutting. It has been the most potent weapon of monopoly—a means of killing the small rival to which the great trusts have resorted to most frequently.
>
> It is so simple, so effective. Far-seeing, organized capital secures by this means the cooperation of the short-sighted, unorganized consumer to his own undoing. Thoughtless or weak, he yields to the temptation of trifling, immediate gain, and, selling his birthright for a mess of pottage, becomes himself an instrument of monopoly.

That from Justice Brandeis. Could it be stated more clearly? No would-be monopolist ever undertook to build his sinister power by stabilizing prices. His method has been to cut prices and destroy independent competitors.

I am perfectly willing to stand on the opinions and judgment of such men as Justices Holmes and Brandeis as to the sound public policy of the bill.

Mr. BARKLEY. Mr. President——

The PRESIDING OFFICER (Mr. FESS in the chair). Does the Senator from Kansas yield to the Senator from Kentucky?

Mr. CAPPER. I yield.

Mr. BARKLEY. It ought to be stated in fairness to Justice Brandeis that in issuing that statement he was not issuing it as a judge of the court, but as the employed attorney for the parties interested in this legislation.

Mr. CAPPER. I stated that he was a member of the Massachusetts bar at the time he made that statement.

Mr. BARKLEY. Yes; but he was also the employed counsel of the advocates of this measure.

Mr. CAPPER. That is true, and I do not think he has changed his views. We have had no statement from him to that effect.

Mr. BARKLEY. I am not sure about that, but I think the fact I have stated ought to appear in the RECORD.

Mr. CAPPER. Mr. President, I earnestly hope that every Senator who was not in the Chamber when our colleague from Ohio [Mr. BULKLEY] submitted his very illuminating discussion of this measure and the evils it is designed to counteract will read his speech and the included citations of decisions and quotations of opinions. These can be found on pages 482 and 483 of the RECORD, under date of December 15. The discussion and the quotations deal directly and very effectively with the subject matter of this measure—S. 97—and I commend them to the attention of the Senate and the country.

Having pointed out the evil the bill is designed to correct and that the evil results largely from a decision of the Supreme Court, which can be reversed by that body or corrected by Congress, perhaps I should call attention to one other phase of the matter,

Just bear in mind that this measure, like other legislation, is only important as the means to an end. The end in this case is the protection of the manufacturer and independent

retailer against predatory price cutting and the protection of the consumer against the evils of monopolistic combinations.

One may ask, How is it that some big manufacturers, like Henry Ford, for instance, can maintain standard prices?

The Supreme Court, neither in the Miles case nor in any of the succeeding cases involving maintenance of resale prices, has never said that a manufacturer does not have the right to fix the resale price on his product. That right of itself is not in question.

What the court has held is that under the Sherman Antitrust Act the resale price can not be fixed by agreement. The manufacturer can fix the price by selling on consignment, but obviously that is out of the question for the ordinary manufacturer and retailer.

In effect the Supreme Court has said: Maintenance of the retail price is perfectly legal; we admit that right; but that power can be exercised under the laws as they stand only by corporations that have enough capital to establish resale agencies everywhere or to wait until the goods are sold and title transferred under consignment. Done by these methods, maintenance of retail price is perfectly valid and entitled to governmental and judicial benediction.

But, on the other hand, if any little independent manufacfacturer who is in competition with perhaps hundreds of other manufacturers, who has established a trade name for his product at perhaps heavy cost, desires to put out his product in the regular channel through wholesaler and retailer, he is debarred from having control over the price.

It seems to me and to the many who understand the purposes of and believe in this measure that if we are to interfere with the freedom of contract, as we have done, then we should make that interference apply to all alike. It should apply to Henry Ford as well as to the little independent manufacturer. That is all this bill is intended to do—put them all on as nearly the same basis of opportunity to compete and survive as is possible by law.

It is not proposed to extend any new and dangerous power to the little manufacturer. Nothing of the sort.

Mr. President, this bill does not deal directly with agriculture; yet, as one who comes from the great farm area, I know that there can be no prosperity for agriculture while other sections of the population have not the means to purchase the products of the farm. This bill is not designed primarily for employment relief, yet it holds within its effects possibilities for the starting of the wheels of industry, which means jobs rather than doles.

Sad the day for any nation, Mr. President, when the farm-owning farmer is turned into a peasant, the mechanic into a proletarian, and the merchant into a clerk! Yet, unless something happens very soon to alter the current, the middle class in the United States is going to be wiped out—not from inferior ability to serve the public but from unjust and artificial handicaps. I find small realization of the desperate importance of the issue of the small business man.

Most of what is raised by agriculture, dug from mires, or made in factories finds its way into use by the consumer across the counter of the retail store.

Mr. BARKLEY. Mr. President——

The VICE PRESIDENT. Does the Senator from Kansas yield to the Senator from Kentucky?

Mr. CAPPER. I yield.

Mr. BARKLEY. In connection with the Senator's suggestion that the bill will aid in the unemployment situation, I would like to ask him if it is not true that if the bill will have any effect at all upon business it will be to increase the prices of products to the consumers?

Mr. CAPPER. I think not.

Mr. BARKLEY. If it will not do that, how will it help those who are sponsoring the measure?

Mr. CAPPER. Under present conditions competition is stifled by the big combinations, and the smaller manufacturers and dealers are put out of business.

Mr. BARKLEY. And this bill is intended to increase prices so that there will be less competition.

Mr. CAPPER. Not at all. In a few cases some prices are now reduced, but only as a result of unfair methods.

Mr. BARKLEY. If the unfair methods are eliminated, of course, then the public who buy the products will pay more for them than they now pay under the influence of competition and reduction in prices. What I am driving at is how does that help the unemployment situation? If any measure under present conditions increases the price of any product and, therefore, compels the purchasing public to pay more for it, how will that help the unemployment situation? Will it not make it even more difficult for people to buy that which they can buy now cheaply?

Mr. CAPPER. I think not. I say the enactment of the bill will stimulate business. It will encourage fair competition and lower prices in the long run. It will aid the smaller manufacturers.

Mr. BARKLEY. In what way?

Mr. CAPPER. I say it will mean fair competition and fair prices.

Mr. BARKLEY. In what way will it aid the small manufacturers?

Mr. CAPPER. It will give them the chance to stay in business. This they do not have now because they are up against the ruthless competition of the big concerns which consign their goods to their own dealers, and sell a few leaders at cut-throat prices as a bait. This practice results in putting the smaller manufacturer and the smaller dealer out of business.

Mr. BARKLEY. Is not the effect of this measure limited to articles the manufacturers of which have been large enough and strong enough and have had sufficient capital to advertise over a period of years and thereby claim that the product is standardized? In other words, will not the effect of this bill be that it will apply exclusively to those products which have been so well advertised over the country by concerns that have the money with which to advertise them in the Saturday Evening Post and other weekly and monthly magazines, that they have become standardized because they have been advertised?

Mr. CAPPER. It is true that the bill would apply in a large way to nationally advertised goods which have become popular by reason of the large sums spent in creating a demand for such goods.

Mr. BARKLEY. The small manufacturer has not been able to indulge in that advertising competition.

Mr. CAPPER. And he never will be so long as he is up against the present unfair competition of a few monopolistic concerns.

Mr. BARKLEY. If this bill is intended to aid the big manufacturer who has the money to advertise, whereas the little manufacturer has not been able to do so, how will that help the little man?

Mr. CAPPER. The bill is intended to put them both on an equal footing; the big chain concern has all the advantage now.

Mr. BARKLEY. In other words, will this bill, when it is passed, enable the small manufacturer to have money enough to advertise in competition with the big manufacturer and therefore offset the benefits intended to be conferred upon the big manufacturer by the bill?

Mr. CAPPER. It will give the little fellow a chance.

Mr. BARKLEY. What chance?

Mr. CAPPER. A chance that he has not now at times because of the cutthroat competition of the big fellow. Competition, furthermore, which is not in the interest of the consumer.

Mr. BARKLEY. It is going to make the little fellow big so that he will be as big as the big fellow?

Mr. CAPPER. It will help keep the little fellow on his feet in his fight to overcome the encroachment of the chains.

Mr. BARKLEY. Where would the little man be who is not engaged in manufacturing? I want to know something about him.

Mr. CAPPER. The principle of the bill is simply to provide equal opportunity and honest competition, which for years we had in this country, and which every business man and manufacturer in all other countries have at this time.

Mr. BARKLEY. The real object of this measure is to reverse a decision of the Supreme Court?

Mr. CAPPER. It undertakes to correct by law a condition resulting from a Supreme Court decision.

Mr. BARKLEY. A mistake which the Supreme Court made?

Mr. CAPPER. A condition brought about by the 5-to-4 decision of the Supreme Court.

Mr. BARKLEY. I know of a number of decisions which were rendered by such a vote. The income-tax decision was by a 5-to-4 vote, and we had to amend the Constitution in order to get around it. Until it is reversed the decision referred to is just as binding and is as much a law as if it had been rendered by a unanimous court.

Mr. CAPPER. Mr. President, the retail business of the country amounts to more than $50,000,000,000 annually. Whoever controls this market holds in his hands the destiny of both the producer and the consumer. Our long-time progress has depended upon fair and active competitive conditions among retail stores.

Everyone has noted the rapid concentration of retailing in many lines of business into mammoth chains. Few have analyzed the cause or understood the threatening significance to us as a people. Many have regretted the development for sentimental or emotional reasons. Few perceive how it reaches back to the farm, the wage earner, and the manufacturer as the market is narrowed into the control of fewer and fewer hands.

Yet, Mr. President, the situation has not, as some of my colleagues believe, gone so far as to be irretrievable. Over 78 per cent of the retail trade is still in the hands of independent dealers, shared by some 1,300,000 merchants. The remaining 22 per cent is done by about 7,000 corporations, the largest of which operates about 20,000 grocery stores, and does a business of over $1,000,000,000 annually—more than enjoyed by such industrial giants as the United States Steel Corporation or the General Electric Co.

In the five years from 1924 to 1929 the growth of these chains absorbed from the total business done at retail an added 7 per cent of the country's sales. In other words, they did 14 per cent of the total in 1924 and over 21 per cent in 1929. The chains' own increase was more than 50 per cent during these five years. At this rate how long before the independent will become extinct?

If this chain-store development was the result of better value giving or superior merit of any sort, as is superficially assumed by some, we might view the declination of our independent fellow citizen with complacency. But when it is accompanied by cruelly artificial and unfair tactics no right-spirited man who sees what is going on, and why, can remain passive. We allow a corporation which owns 2 stores or 10 stores in a town or neighborhood, and which if owned separately by individuals would be considered competitors, to establish a uniform price on any or all articles in its different stores, while we make it illegal for the independent competitors to reach any understanding about uniform prices but compel them to fight each other and the chains. Ownership, which large capital permits over many stores, gives privileges denied the smaller man. Is that the equal opportunity our country was dedicated to afford?

Again, take the small manufacturer as against the great one. Our law permits the great concern to consign its merchandise to the dealers, calling them its agents. It owns the goods in its dealers' stores. It can then direct them as to the prices at which these goods may be sold. The dealer can not cut prices on goods that belong to the manufacturer. That manufacturer is saved the disaster of a cut-price war among his dealers. They can make a living profit on his goods. They will push them to the public in preference to the goods of other factories on which they must meet prices of competing dealers. The small manufacturer is not allowed to enter into arrangements with his dealers to whom he sells his goods for distribution. One dealer cuts. Others must meet him. Profits are gone. There is no incentive to handle. The small manufacturer is the victim of competition on his own goods among his dealers and loses business. If he were big enough and had capital enough to be able to consign his goods and own them in the retail stores, he would escape this penalty. What a travesty on equality of opportunity to permit the wealthy corporation to accomplish legally what we forbid the smaller competitor to accomplish at all.

These restrictions have fostered many unsound consolidations and mergers. Giant chains fighting each other are being merged. Great factories absorb smaller competitors. We are forcing consolidations that lead to monopoly. We are sick industrially and commercially to-day because of the unhealthy environment our false course has bred.

Let me not be misunderstood, Mr. President. I am arguing for, not against competition. But let it be fair, honest, and genuine, not deceptive and ruthless. The small dealer is being extinguished not because he can not compete, but because he is made to appear to be unable to do so.

The chief device which accounts for this deceptive appearance is the offering of so-called "loss leader" bargain bait to the public at cut prices. In a sense it is trick merchandising. The trick is this: The big outlets, which can afford to stand temporary losses, take well-known standard articles, such as Campbell's soup, or Colgate's tooth paste, or kodaks, or the Ingersoll dollar watch, and advertise them at great reductions in conjunction with other articles of unidentified origin but ostensibly representing the same reduction below market values. Amidst a newspaper page of items, all purporting to be perhaps a third below real worth, will be sprinkled a few genuine bargains on standard articles whose values are known in every household. In other words, the names and public confidence of these nationally accepted goods are utilized to give credence to the claims for unknown goods, much as the old-time huckster packed his best apples on the top of the basket. Often, indeed, usually this amounts to misrepresentation by using the good names earned by others to cover doubtful transactions.

Mr. BARKLEY. Mr. President, will the Senator yield there?

The VICE PRESIDENT. Does the Senator from Kansas yield to the Senator from Kentucky?

Mr. CAPPER. I yield.

Mr. BARKLEY. If this bill should be enacted into law, the Great Atlantic & Pacific Tea Co., which is engaged in the grocery business, would not be able to sell a package of Post Bran or Shredded Wheat or Campbell's soup for any price except that which was fixed by the concern that made it originally; nobody could buy a package of Colgate's tooth paste to keep his teeth clean except by paying the price fixed by the manufacturer; and when a customer in the rural sections of Kansas went into a country store which had no overhead expenses and no large clerk hire and no house rent to pay he would have to pay the same price for that article as would a customer in the city of New York or Chicago or Atlanta in a store with high rent, heavy clerk hire, and large overhead expenses. In other words, if this bill should be enacted, and should work as it is intended to work, nobody in any part of the country would get any advantage of any local commercial conditions due to a difference in the cost of operating business; everything would be standardized from the Atlantic to the Pacific, and all purchasers would pay the same price for a given article, regardless of the fact that a merchant in one community might be able to sell cheaper and at the same time make as much profit as a merchant in a larger community; but, because of the enactment of this proposed legislation, he could not give his customers the benefit of any advantage that he enjoyed by reason of his smaller outlay in doing business. Is that correct?

Mr. CAPPER. No; it is not correct.

Mr. BARKLEY. If that is not correct, then those who advocate this measure are certainly mistaken as to what it is going to do for them.

Mr. CAPPER. The provisions of the bill are simply permissive, making it possible for a manufacturer of certain trade-marked goods to enter into a voluntary agreement

with the dealer who wishes to handle his goods and who agrees that he will not sell at cut-throat prices.

Mr. BARKLEY. So the man living in Elmira, N. Y., who wanted a Stetson hat, regardless of the cost of doing business in that community, regardless of clerk hire, regardless of house rent, and regardless of interest at the bank, would have to pay the same price for that hat as that paid by a man in the city of New York on Fifth Avenue purchasing it from a concern which had to meet high rent and high interest rates and high clerk hire.

Mr. CAPPER. Oh, no; if the manufacturer and the dealer had entered voluntarily into an agreement that between themselves——

Mr. BARKLEY. In other words, the manufacturer and the dealer under this permissive law—which was the thing which the Supreme Court passed on—will enter into an agreement as between themselves as to what shall be the retail price of a particular article to the ultimate consumer without regard to the welfare and the interest of that consumer, without whose custom neither the retailer nor the manufacturer can do business.

Mr. CAPPER. In the long run, though, the consumer will pay more money for his purchases if these cut-throat practices are permitted.

Mr. BARKLEY. Under this bill?

Mr. CAPPER. No; under the practice that the Senator suggests.

Mr. BARKLEY. I am not suggesting any practice; I am talking about the results of this bill. I am trying to find out what is going to happen. I know, as a matter of fact, and the Senator from Kansas knows, that if it is not going to result in an increase in prices, or, at least, in the inability on the part of any merchant to reduce prices of anything he sells, it is not going to work the miracle that its advocates contend that it will. I think we might as well be frank about it. The object of this measure is to prevent any merchant from reducing the price of anything below what some other merchant is willing to agree with the manufacturer that it shall bring.

Mr. CAPPER. That is not the object at all.

Mr. BARKLEY. That is what it will do, and I think that is its object. The complaint is that a merchant on one side of the street will reduce Kolynos tooth paste or Pond's cream or a toothbrush or Listerine or a Stetson hat below the price at which a merchant on the other side of the street is willing to sell. The object of this bill is to prevent a merchant on one side of the street from reducing the price of his goods below that for which a merchant on the other side of the street sells them, under a contract with the manufacturer that he shall not sell them except at the price fixed by the manufacturer.

Mr. CAPPER. Mr. President, the owners of these names under the decisions of our courts are powerless to prevent these abuses. The makers of these articles which have earned public acceptance are forbidden to protect the multitude of independent dealers against the oppressive misuse of their good names in deceptive price cutting. Their trademarks and good will may be employed against their will by big distributors who have no interest in them, but by predatory price cutting undermine the multitude of independents who wish to handle their products wholesomely and at reasonable but not ruinous prices. It is the underselling on these recognizable articles that is largely responsible for the notion that the chains give better values than the independents on everything. People have no way of knowing that the losses are recouped on bulk merchandise which they can not definitely compare. It is somewhat analagous to the practice by which the oil monopoly was established, when competitors were destroyed by selling at a loss in a given area while the losses were recouped through excessive prices in areas where competition had been eliminated. We have since then passed statutes forbidding these practices.

There is an impression that the big outlets can undersell because they can underbuy through quantity purchases. They can not and do not undersell in the main. To-day the independents in large measure have established cooperative joint purchasing agencies to get the benefit of bottom quantity prices. But apart from this the heavier overhead expenses of the chains offset most of their buying advantages. The average operating expense of the chain grocery is 18.2 per cent of its sales, according to the Harvard University Bureau of Retail Research. The ordinary service grocery runs at 13.8 per cent expense, or 4.4 per cent below the chain, according to the Alexander Hamilton Institute report. Similar advantages are found for independent shoe, drug, and other retailers over chains.

Dr. R. S. Alexander, professor of marketing, Columbia University, who conducted an investigation of the comparative values given to the public by chain stores and independent stores, says in a report of findings:

> On the whole * * * our survey indicates * * * that neither chains nor independents have any material price advantages.

Mr. President, it is a shame which we should not tolerate, that tens of thousands of small business men are being driven to the wall or turned into hired clerks for absentee-owned stores by practices which are socially and economically harmful.

Like the proverbial snowball, this movement has gained enormous momentum in the past five or six years. Its destructive force, the speed of its spread is increasing with every passing day. The important truth, however, is that the situation can be corrected. Seventy-eight per cent of the country's $50,000,000,000 annual retail business is still in the hands of over a million and a quarter of independent retail merchants. If we act promptly, we can arrest the threatening tendency. We can preserve the business sections of our towns and cities in the hands of self-respecting and independent citizens. We can make it possible for the moderate-sized manufacturers permanently to find outlet for their products to the public without submitting to the terms imposed by monopolistic middlemen. We can assure the public that the avenues of trade will be kept open so that people may continue to have a free choice among the market's varieties.

It is the chief objective of the Capper-Kelly bill, Senate bill 97, to restore the equality of opportunity for the smaller business man in his competition with the big corporation. We take nothing from the big concern, but we do put the small man on an equal footing in one important respect.

We simply make it permissible for the owner of trademark brands to enter into agreements with his distributors that his name shall not be made the cat's-paw to pull trade away from his many small dealers by using his goods as loss leaders and bargain bait.

We stop one of the unwholesome deceptions of business, which is not only working havoc among retailers by the thousands but is building monopolistic middlemen, who hold the welfare of the moderate-sized manufacturers and the wage earners in their factories in their power as well as the buying public. We want no middlemen in such a position of power.

When this bill has become law, the man with one store or a hundred men each owning a store will not be at a disadvantage in competing with the corporation operating a hundred stores in respect of branded merchandise. The moderate-sized manufacturer will no longer be at a disadvantage as compared with the industrial giant with capital enough to consign its goods and use the dealers as agents. He will accomplish equality by means of contracts instead of capital. This is genuine economy which public policy ought to encourage. As Professor Seligman, of Columbia University, puts it, we will have taken one more forward step in the direction of fair competition. We will have wiped out more blot from our commercial escutcheon.

Mr. President, year after year responsible delegations of the business men whose joint welfare is the welfare of the whole country have come here to appeal for this relief. By the tens and hundreds of thousands they have written and wired their appeals. Meanwhile, several hundred thousand have been driven out of business, contributing to the condition now prevailing in America.

In making an appeal for action I should like to say again that I am speaking for 1,250,000 independent American merchants. Through their national and State associations they have registered their resolutions. They represent over 87 per cent of all retail establishments. These merchants, according to the report of the Department of Commerce, handled merchandise worth in excess of $50,000,000,000 in 1929. This is 78 per cent of all the consumer goods purchased by the American public. It amounts to about four times the value of all the products of all our farms. It accounts for the greater part of all the goods produced by all our factories. It represents most of the labor of all our wage earners and most of the freight transported by our railways.

These merchants distribute over $100,000,000 weekly in pay roll, normally, over $5,000,000,000 yearly. They employ over 6,000,000 workers out of our total of 48,000,000 gainfully employed; and, with their immediate families, they represent 14,000,000 people directly dependent upon their activities. Their orders keep the wheels of industry turning, workers employed, farm products consumed. Permit unfair competitive conditions which sap the confidence and energies of this great body of business men, and you paralyze the Nation. When ruinous price cutting and deceptive trade conditions are driving these men by the thousands to the wall, how can business revive? Factories can not run when they are afraid to buy their products.

Let the retail dealers buy merchandise without the threat of having their trade baited away by the notorious loss-leader deception of the monopolistic chain stores. Trust the multitude of self-respecting independent merchants to do a real job of breaking the business jam instead of waiting for the big fellows who can not do it. The great mass of common men should be the reliance of a democracy.

To those who are in doubt as to the ability of the independent merchant to serve the public with values equal to the big companies, I invite attention to the charts which I have had prepared and which are hanging in this Chamber. Those are all questions which can be thrashed out when the bill is before us, and upon which you must be satisfied if you are not already informed. Some, I know, are misled by the very influences which are ruining so many dealers unjustly in public estimation. Join me, my colleagues, in preventing the further unmerited extension of the chain stores. Let them survive by fair means if they can, but lop off their parasitic and uneconomic privileges. Give the independent a fair fighting chance and observe whether the individual initiative of the average citizen can not outstrip the inertia of size. Try, in practice, the doctrine of equal opportunity for all, and see whether the foundations on which our fathers builded were not sound. Do not let democracy go by default. Help to preserve the free and independent character of our towns and cities by stopping the spread by trick merchandising of the chain-store system. Let these earn their way by fair and honest methods. Dispel the discouragement which lays the foundation for the racketeer. Give business and employment new impetus by responding to the overwhelming demand of the business community for action upon the bill—S. 97—which I am now asking to have placed before the Senate.

The VICE PRESIDENT. The question is on the motion of the Senator from Kansas.

TRAIL SMELTER FUMES

Mr. DILL. Mr. President, since the Senate is not busily engaged in any legislative business, I shall take this occasion to discuss a subject which at the moment affects only the State of Washington but which, because of the precedents that are being set in this matter, may become of vital importance in the future to every other State that borders either Canada or Mexico.

I propose to tell the story of a tragedy. It is a tragedy consisting of a series of small tragedies that accumulate with the years. It is not a tragedy caused by some great outbreak of the forces of nature, such as an earthquake, a volcano, a storm, or a pestilence. If such an act of God had caused this tragedy, it would have ended long ago, because God is that merciful. This tragedy, being man made, continues year by year.

This tragedy has resulted from the diplomatic delay, the official indifference, and the international red tape involved in the unequal struggle of a few hundred poor farmers to save their homes from destruction by a great foreign corporation in Canada.

If I were a poet, I could write a song of sorrow about it. That song might not live with Longfellow's Evangeline, but it would be more pitiful, because this eviction of these people from the land they love is being accompanied by the destruction of its production and the fertility of its soil.

If I were a musician, I could compose a dirge to commemorate this cruelty. It might not rank in musical history with Chopin's Funeral March, that commemorated the partition of Poland; but it would be more sad, because this partition is of families and communities, not by more powerful foreign nations, but under their own Government, the strongest on this earth, by a foreign corporation creating a poison foe from which they can not escape, since it fills the air they breathe and thereby attacks and impregnates everything they produce or possess subject to chemical action by air.

If I were a historian, I could paint a vivid word picture of this invasion. It might not be as stirring as the stories of Napoleon's advance on Moscow or the Kaiser's rape of Belgium; but it would be more shocking, because this invasion is not to gratify a war lord's lust for power—this is the cold, silent, irresistible advance of life-destroying fumes poured into the air as the result of a greedy, soulless corporation's efforts to pile up profits, while the suffering and destruction which follow are in reality the tribute which the victims pay for having happened to live in the path of ruin.

But, sir, not being a poet, not knowing how to immortalize great suffering in music, and being without genius as a writer, all I can do is to tell this tale in its naked reality, and hope that those who listen or read it will catch the terror of the truth and help me secure action from those who have the power to give some small measure of redress.

This tragedy did not happen in some far-away country of another civilization. It is here at home, in our own country. It began nine years ago. It continues now along our northern boundary line—a boundary line 3,000 miles long, and of which we have boasted that for more than a century along its course no forts have frowned, no big guns bristled, and no men-of-war floated.

No private Canadian citizen or group of Canadian citizens would do this as individuals; it is the work of that creation of the law called a corporation. This organization, called a corporation, greedy for profits, greedy for gold in Canada, as in our own country, too often takes its toll of profits regardless of the suffering and ruin it may cause in the lives of individuals. In this case, this great corporation has barricaded itself behind legal technicalities, and taken advantage of international red tape, and made much use of what Shakespeare called "the law's delay," to avoid its full responsibility, until to-day a once beautiful, productive country along the upper course of the majestic Columbia River of the far Northwest is fast becoming a barren waste, its inhabitants being evicted, and its civilization vanishing into a memory.

Some may say that such delay is always the result when there is an attempt to protect private rights by diplomatic methods, but let me call attention to the difference in methods which our State Department used in protecting the interests and rights of a few hundred poor American farmers within our own borders, and in safeguarding the interests of a great American corporation in a foreign land.

It took us more than four years to induce our State Department to have the wrongs and damages done to these farmers even considered by the International Joint Commission. It took another two years for the commission to reach a decision. Now nearly two years more have passed since the decision was reached, and our State Department has done absolutely nothing about the matter. During all of this time the destruction and ruin caused by this foreign corporation have continued, and continue at this hour.

What did the State Department do when the Spanish Government proposed to take over the property of the International Telephone & Telegraph Co. by nationalizing the telephone system of Spain? Did they refer it to a commission? They did not. Did they resort to diplomatic discussions? They did not. The Secretary of State let it be known that this country would probably break off diplomatic relations with Spain if the Spanish Government dared to interfere with the privilege of an American corporation to make profits in that country. There was no proposal to confiscate property. Of course, the Spanish Government would have paid for that property, but it would have made it impossible for the American corporation to continue to make profits in a foreign land. With that proposal in front of them, the State Department let it be known that they would probably break off diplomatic relations.

Yet we have been waiting for nine years for some relief for these farmers of the Northwest, two years of that time after the International Joint Commission has made a report and recommendation for action, and all those farmers have in the world is being destroyed. After they have spent their lives to secure their little homes, they are being driven out one by one, the productivity of their lands ruined, everything they have lost, and the country being made a barren waste.

These different methods in handling the rights and interests of these poor farmers and in handling the rights and interests of this great American corporation under a foreign flag are in such striking contrast that I need not comment at length upon what it implies. The State Department would break off relations with a foreign government because an American corporation's rights to make profits were to be interfered with. Yet nearly eight years have passed and the devastation and ruin of American property within our own borders, resulting from the acts of a foreign corporation in Canada, continue.

Now, let me tell the story of this tragedy. About 30 years ago at the town of Trail, British Columbia, 6 miles north of the international boundary line on the Columbia River, the Consolidated Mining & Smelting Co. built a small smelter. It gradually enlarged that institution and in 1915 added a zinc-smelting plant to what already existed.

When this smelting plant smelts lead, zinc, iron, and copper sulphides, it pours into the air literally millions of tons of deadly SO_2 gas, commonly known as sulphur dioxide. This gas amounts to more than a million pounds per day, or 470,000,000 pounds per year, and is two and one-half times as heavy as air. When mixed with the moisture of the air it forms sulphuric acid, and the SO_2 poured into the air at Trail is equal to 1,000 tons of sulphuric acid every 24 hours.

The prevailing winds there blow from the northeast and carry this air, laden with poison fumes, down the narrow valley of the Columbia into Stevens County, Wash. The average rate of the wind is only 4 miles per hour, so that it does not dilute the poison gas with the air sufficiently to prevent its falling on the earth and attacking everything it touches. The mountains on both sides of the river for 40 miles below the boundary line make the Columbia River Valley a sort of conduit for these fumes.

If you go into the valley, you can smell and taste this poison in the air. It kills the timber on the mountain sides; it blights the wheat, the oats, the alfalfa in the fields; it stunts the fruit on the trees; it discolors the berries and gives them a bitter taste; it causes rust upon all farm implements and upon wire and iron in every form; it burns the throats of livestock and also of human beings and often results in their illness and a generally weakened physical condition.

While these fumes did some damage as early as 1918 on the American side of the boundary, it was not until 1923 or 1924 that the farmers found the damages so serious that they made complaint both to the smelter company and to our own State Department. It was not until 1927 that we were able to induce the State Department to take official steps to have the Canadian Government take cognizance of this situation.

Let me point out here that our American farmers are absolutely helpless to do anything to protect themselves. They can not go into the Canadian courts. Our own courts have no jurisdiction over this Canadian corporation. The only peaceful method of protecting their rights is through the Government here at Washington.

What has enraged the farmers most and makes the continuation of this destruction of property so indefensible is that it is all entirely unnecessary. There are smelters all over this country. They have provided equipment to take the poison from smelter fumes. They have done that at Tacoma, Butte, Salt Lake, and in many other parts of the country. They can do it at Trail, but it will cost considerable money.

This Consolidated Mining & Smelting Co. can well afford to spend the necessary money. They have been making tremendous profits during the years they have been destroying the properties of American citizens. They increased their net profits from $3,000,000 in 1924 to $11,000,000 in 1927. In 1928, when their net profits were more than $10,000,000, they spent $125,000 to take the poison out of the fumes. They came across the line and negotiated with our farmers who were complaining, and who were desperate, for enough money to live upon, and finally made settlements with individual farmers amounting to $4,400. During that year the dividends to stockholders amounted to $6,366,000. This was a 10 per cent dividend in addition to the bonus of $10 per share on all their stock.

We contend that any corporation making such enormous profits should be compelled to spend the necessary amount of money to prevent poisonous fumes from contaminating the air and destroying the property of small home owners who have spent their lives in accumulating the small holdings they now have. Unless these fumes are stopped from coming into the United States, the entire valley of the Columbia River 30 or 40 miles south of the boundary, in Stevens County, Wash., will soon be a barren waste, all because this foreign corporation is bent on making enormous profits from the smelting business without giving protection to those who can not legally compel protection.

Mr. President, we have not been lax in our efforts to have our own State Department take steps to protect these people. As early as 1926 I insisted that the Secretary of State should take some action. On January 8, 1927, I wrote a letter to the Secretary of State calling attention to the treaties with Canada preventing the pollution of waters which run from one country into the other and to the treaty which relates to destruction by fire from either side of the border. I insisted that Canada should be required to protect these farmers against damages resulting from the poison smoke fumes from the smelter at Trail, British Columbia.

On February 5, 1927, Joseph C. Grew, Acting Secretary of State, wrote me a letter in response to this demand, a copy of which I ask to have printed in the RECORD at this point.

The VICE PRESIDENT. Is there objection?

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
Washington, February 5, 1927.

The Hon. C. C. DILL,
United States Senate.

MY DEAR SENATOR: I take pleasure in acknowledging the receipt of your letter dated January 8, 1927, in which you call attention to very serious damage which you state is being done to crops and fruits on farms in the vicinity of Northport, Wash., as a result of smoke fumes that drift over the mountains from the smelter at Trail, British Columbia. You state that you understand this Government has concluded a treaty with Canada preventing the pollution of water which runs from one country into the other, that there is also a treaty relating to destruction by fire, and that, therefore, it seems to you this country would be justified in requesting the Government of Canada to negotiate a treaty to protect the two countries against the pollution of the air by poisoned fumes. Accordingly you suggest that I consider the advisability of bringing this matter to the attention of the ambassador of Great Britain at this Capital.

The department has had under consideration for more than two years the question of the damages which it is alleged are being caused by smoke fumes from the smelter at Trail, British Columbia, and steps are being taken with a view to having officers of the Department of Agriculture make a careful investigation and

report in regard thereto. The Secretary of Agriculture has informed me, however, that his department does not have available sufficient funds for this purpose and that it will be necessary to obtain a special appropriation for the purpose.

I am transmitting a copy of your letter to the Secretary of Agriculture, and I am asking him whether he would be disposed to make an appropriate recommendation to the Congress so as to obtain sufficient funds to pay the expenses incident to the proposed investigation.

I shall be pleased to keep your request before me, and, if the report which may be made in this connection seems to warrant, your request will be given careful consideration.

I am, my dear Senator DILL, sincerely yours,

JOSEPH C. GREW.
Acting Secretary of State.

Mr. DILL. Mr. President, I want to call attention to the fact that Mr. Grew recognizes that something should be done but complains that they have not any positive information on which they can rely, and that they must have the Secretary of Agriculture secure this information, and he says there is no appropriation available for that purpose.

On May 18, 1927, at Spokane, Wash., the farmers of this valley, the county commissioners of Stevens County, attorneys representing the farmers and the smelter company, and officials of the smelter company, together with Congressman SAM HILL and myself, held a meeting at which this whole situation was fully discussed.

On May 19, 1927, I sent the Secretary of State the following telegram:

MAY 19, 1927.

Hon. FRANK B. KELLOGG,
Secretary of State, Washington, D. C.:

Poison fumes from smelter of Consolidated Mining & Smelting Co. at Trail, British Columbia, are fast destroying farm lands of Stevens County along Columbia River, and unless stopped will entirely destroy all vegetation on these lands. Constitution of this State forbids ownership of land by foreign corporation, and farmers are helpless in efforts to get damages. At meeting here yesterday of farmers, county commissioners, attorneys, and Congressman HILL of Washington and myself, with officials of smelter company, it was agreed nothing could be done to protect these lands. Judge George Turner, formerly a member of International Joint High Commission, insisted that this case comes under treaty of 1909 and should be referred to that commission. Do you agree and will you refer this case to that commission on presentation of data showing devastating destruction by these smelter fumes? Surely this Government must take action to protect the property of its own citizens in our own land from destruction by a foreign corporation located in a foreign country. This situation is becoming desperate for citizens who have spent their lives developing these lands and making homes for themselves. If this smelting company should plant guns on the Canadian side and shoot shells across the border, the destruction might be more spectacular and rapid, but not as completely effective as is being caused by the shooting of these poison fumes from 500-foot smelter stacks. If this case can not be handled under treaty, this Government should present a bill for damages and also ask for a new treaty under which the rights of American citizens can be protected. This case has been before the State Department for some time, and I urge immediate action.

C. C. DILL.

On May 23 Mr. C. V. Savidge, the State land commissioner of the State of Washington, sent a letter to the Secretary of State explaining the interests of the State in this matter because of State timberlands; and I should like to have that letter inserted in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF PUBLIC LANDS,
Olympia, May 23, 1927.

Hon. FRANK B. KELLOGG,
Secretary of State, Washington, D. C.

SIR: Fumes from the smelter of the Consolidated Smelting Co. at Trail, British Columbia, are destroying vegetation on lands along the Columbia River, extending many miles into the State of Washington.

Because the constitution of this State forbids the ownership of land by foreign corporations, the State of Washington and its individual citizens whose property has been damaged are unable to secure payment for the damage done.

At a meeting held in Spokane on Wednesday, the 18th, and attended by county officials, landowners, Senator C. C. DILL, Congressman HILL, and myself, on behalf of the State of Washington, together with the officials of the smelter company, it was impossible to find a solution of the problem. However, Judge George Turner, a former member of the International Joint High Commission, advised the meeting that this matter came within the provisions of the treaty of 1909 and should be referred to that commission.

Within the area subject to destruction by the smelter fumes are valuable timberlands belonging to the school grants of the State of Washington. As the duly elected commissioner of public lands of the State of Washington, I am therefore requesting that you refer this matter to the commission as provided in the treaty of 1909.

Aside from the damage done to the property of the State of Washington, this is a very serious matter for many citizens of this State whose lands are being rendered barren by these fumes. Surely this matter is worthy of your attention, and I trust that you will decide that it comes within the provisions of the treaty referred to.

Very respectfully,

C. V. SAVIDGE, *Commissioner.*

Mr. DILL. Mr. President, on May 28 I received a telegram from the Secretary of State, Mr. Kellogg. Mind you, this was some four years after we first began protesting, and urging that something be done. That telegram was as follows:

WASHINGTON, D. C., *May 28, 1927.*

The Hon. C. C. DILL,
Spokane, Wash.:

Your telegram May 19 regarding smelter fumes. Department is taking up matter with Canadian Government. Meanwhile I would be glad to receive from you data to which you refer showing effect smelter fumes. Principal statements should be under oath.

FRANK B. KELLOGG,
Secretary of State.

That was on May 28, 1927. The negotiations continued for more than a year before we finally secured an agreement with the Canadian Government to have this matter advert to the International Joint Commission. On August 7, 1928, such an agreement was reached. On August 11 the Secretary of State wrote me a letter explaining that action had been agreed upon between the two Governments under Article IX of the treaty of January 11, 1909, for the purpose of determining the extent to which the property had been damaged, the amount of indemnity that would compensate those interested in the case, the effect in Washington of future operations, and any other problems that might arise.

Then the commission began to hold hearings and take charge of the work. On October 9 and 10, 1928, the commission held hearings at Northport, Wash., which is the principal town in the valley affected by the poisonous fumes.

On April 2, 12, and 13, 1929, the commission held hearings at Washington, D. C.

On November 4, 1929, the commission held a meeting at Nelson, British Columbia.

On January 22 to February 12, 1930, the commission held final hearings at Washington, D. C., and then deliberated over the case for more than a year.

On February 28, 1931, the commission made its report, and on March 6, 1931, the Secretary of State released the report with the statement that it would be considered sympathetically with a view to its acceptance or rejection.

Mr. President, I ask to insert in the RECORD at this point as a part of my remarks a copy of the statement issued by the Secretary of State and also the report of the commission.

The VICE PRESIDENT. Without objection, that order will be made.

The statement and report are as follows:

DEPARTMENT OF STATE,
March 5, 1931.

STATEMENT BY THE SECRETARY OF STATE REGARDING THE REPORT AND RECOMMENDATIONS OF THE INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA, REGARDING FUMES FROM SMELTER AT TRAIL, BRITISH COLUMBIA

The complaint regarding damages in the State of Washington, caused by fumes from the smelter of the Consolidated Mining & Smelting Co., of Trail, British Columbia, was referred to the International Joint Commission, United States and Canada, on August 7, 1928, for investigation, report, and recommendation, pursuant to Article IX of the treaty of January 11, 1909, between the United States and Great Britain.

The commission held a meeting at Northport, Wash., in October, 1928, and at Nelson, British Columbia, in November, 1929. In January and February, 1930, an extensive hearing on the reference was held in the city of Washington, when the testimony of scientists from the Department of Agriculture, who had been sent to Stevens County, Wash., to investigate the fumes problem; the testimony of scientists of the Canadian Government, who had studied the problem; and the testimony of representatives of the

smelting company and of residents and officials of Stevens County was presented to the commission. Since that time briefs in behalf of the Government of the United States and the Government of Canada, of the complainants, and of the smelter company have been filed with the commission.

On February 28, 1931, the commission reached a unanimous agreement at Toronto, Canada. In the agreement the commission makes a finding as to the region affected by the fumes and determines the damages up to January 1, 1932, to be $350,000. The commission finds that the damage from fumes will be greatly reduced, if not entirely eliminated, by the end of the present year if the company proceeds with remedial work which is in process of installation.

The agreement provides that upon complaint of any person that damages have been suffered subsequent to January 1, 1932, and the claim for damages is not adjusted by the company with the claimant within a reasonable time the Government of the United States and the Government of Canada shall determine the amount of damages due and the amount so determined shall be promptly paid by the company.

The commission describes the remedial works which the company has installed and is in process of installing and recommends that the company be required to proceed as expeditiously as may be reasonably possible with the works referred to and that it be required to erect with due dispatch such further units and take such further other action as may be necessary, if any, to reduce the amount and concentration of sulphur fumes to a point where no damage will be caused in the United States.

The commission recommends that scientists of both Governments observe the works erected by the smelter company to control the fumes and to report from time to time to the two Governments such further works or action, if any, which the scientists consider the company should adopt.

A method of disbursing among claimants the amount awarded is recommended by the commission.

As has been indicated above, the commission has jurisdiction to make recommendations. The recommendations have been submitted. It now becomes the function of the Government of the United States and the Government of Canada to determine whether the recommendations shall be accepted.

I only now wish to say that I am very much gratified by the following features of the report as it appears to me. The Government has not yet had time to consider its action entirely. In the first place it is a unanimous report concurred in by all of the commissioners, not only of this country but of Canada. Every such decision, particularly on such an important problem as this has been, should conduce strongly to the good relations of the two countries.

The commissioners in their decision have attempted not only to cover the question of past damages but to provide for the permanent solution in the future of this problem, and it is gratifying that they should have reached unanimously such a decision.

In reporting upon the actual damages which have been now incurred the commission have awarded to the American claimants a very substantial sum, and report that they have eliminated only those damages which they considered too remote or too indefinite for judicial determination.

A decision with these elements will be sympathetically considered by this Government in reaching its decision as to whether to accept the report or not.

A copy of the joint commission's report follows:

REPORT OF THE INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA, ON QUESTIONS CONTAINED IN REFERENCE DATED AUGUST 7, 1928, TRANSMITTED TO THE COMMISSION BY THE GOVERNMENTS OF THE UNITED STATES AND CANADA PURSUANT TO THE TERMS OF ARTICLE IX OF THE TREATY OF JANUARY 11, 1909, BETWEEN THE UNITED STATES AND GREAT BRITAIN, THE REFERENCE IN QUESTION RELATING TO INJURY TO PROPERTY IN THE STATE OF WASHINGTON BY REASON OF THE DRIFTING OF FUMES FROM THE SMELTER OF THE CONSOLIDATED MINING & SMELTING CO. OF CANADA (LTD.), IN TRAIL, BRITISH COLUMBIA

In the matter of the reference relating to damage in the State of Washington caused by fumes from the smelter at Trail, British Columbia, operated by the Consolidated Mining & Smelting Co. of Canada (Ltd.), hereinafter called the company, the commission begs to report that the following are respectively the questions submitted to it by the Governments of the United States and the Dominion of Canada, and its findings thereon:

1. (1) Extent to which property in the State of Washington has been damaged by fumes from smelter at Trail, British Columbia.

The territory affected is to be found within the three zones shown on the map accompanying this report and for the purpose of identification marked with the letter A.

(2) The amount of indemnity which would compensate United States interests in the State of Washington for past damages.

In view of the anticipated reduction in sulphur fumes discharged from the smelter at Trail during the present year, as hereinafter referred to, the commission therefore has deemed it advisable to determine the amount of indemnity that will compensate United States interests in respect of such fumes up to and including the 1st day of January, 1932. The commission finds and determines that all past damages and all damages up to and including the 1st day of January next is the sum of $350,000. Said sum, however, shall not include any damage occurring after January 1, 1932.

(3) Probable effect in Washington of future operations of smelter.

Provided that the company having commenced the installation and operation of works for the reduction of such fumes proceeds with such works and carries out the recommendation of the commission set forth in answer to question (5), the damage from such fumes should be greatly reduced, if not entirely eliminated, by the end of the present year.

(4) Method of providing adequate indemnity for damages caused by future operations.

Upon complaint of any person claiming to have suffered damage by the operations of the company after the 1st day of January, 1932, it is recommended by the commission that in the event of any such claim not being adjusted by the company within a reasonable time, the Governments of the United States and Canada shall determine the amount of such damage, if any, and the amount so fixed shall be paid by the company forthwith.

(5) Any other phase of problem arising from drifting of fumes on which the commission deems it proper or necessary to report and make recommendations in fairness to all parties concerned.

(a) The commission deems it proper and necessary in fairness to all parties concerned to report and make recommendations with reference to the reduction of the amount and the concentration of SO_2 fumes drifting from the smelter of the company into the United States.

The company has erected and put in operation the first of three sulphuric-acid units, each with a capacity of 112 tons per day, which it proposes to erect for the purpose of reducing such fumes.

The company has represented to the commission that said units, together with a pilot plant with a capacity of 35 tons per day, which has been in operation for some time, will produce 147 tons of acid per day thereby reducing the amount of sulphur discharged from the stacks of said smelter by 49 tons per day.

The company has further represented to the commission that it will have a second 112-ton sulphuric acid plant in operation in or about the month of May, 1931, and a third unit of like capacity in or about the month of August, 1931, and that when said units are completed as aforesaid, they, together with said pilot plant, will be using 123.6 tons of sulphur extracted from said fumes, thereby extracting approximately 35 per cent of the total sulphur content of the fume discharged from said stacks.

The company has further represented that the plants and works constructed and contemplated by it as aforesaid will necessitate the expenditure of a sum in excess of $10,000,000, the greater part of which has already been expended.

The commission therefore reports and recommends that, subject to the provisions hereinafter contained, the company be required to proceed as expeditiously as may be reasonably possible with the works above referred to, and also to erect with due despatch such further sulphuric acid units and take such further or other action as may be necessary, if any, to reduce the amount and concentration of SO_2 fumes drifting from its said plant into the United States until it has reduced the amount by some means to a point where it will do no damage in the United States.

(b) The commission further recommends that the Governments of the United States and Canada appoint scientists from the two countries to study and report upon the effect of the works erected and contemplated by the company as aforesaid on the fumes drifting from said smelter into the United States and also to report from time to time to their respective Governments in regard to such further or other works or actions, if any, as such scientists may deem necessary on the part of the company to reduce the amount and concentration of such fumes to the extent hereinbefore provided for.

(c) When the company has reduced the amount and concentration of SO_2 fumes emitted from its plant at Trail, British Columbia, and drifting into the territory of the United States to a point where it claims it will do no damage in the United States, then it shall so notify the Government of Canada, which shall thereupon forthwith notify the Government of the United States, which may then take up the matter with the Government of the Dominion of Canada for investigation and consideration to determine whether or not it has so reduced the amount and the concentration of SO_2.

(d) The question of whether or not the company is proceeding with expedition as aforesaid may be taken up at any time by the Government of the United States with the Government of Canada for further consideration.

(e) This finding and recommendation under question (5) must be read in connection with questions (1), (2), (3), and (4); that is to say, if these conditions as above stated under question (5) are fully met there will be no future indemnity to pay, that being included in the amount of damages embraced under question (2), except as hereinafter provided.

(f) Any future indemnity will arise only if and when these conditions and recommendations stated under question (5) are not complied with and fully met, and then only in respect of any damage done after the 1st day of January, 1932, as hereinafter provided.

(g) The word "damage," as used in this document, shall mean and include such damage as the Governments of the United States and Canada may deem appreciable and, for the purposes of paragraphs (a) and (c) hereof, shall not include occasional damage that may be caused by SO_2 fumes being carried across the international boundary in air pockets or by reason of unusual

atmospheric conditions. Provided, however, that any damage in the State of Washington howsoever caused by said fumes on and after January 1, 1932, shall be the subject of indemnity by the company to any interests so damaged, and shall not be considered as included in the answer to question (2) of the reference, which answer is intended to include all damage of every kind up to January 1, 1932.

2. It is further recommended that the amount of the indemnity specified in question (2) shall be paid into the Treasury of the United States and shall be held as a trust fund for the use and benefit of persons having suffered damage as hereinbefore mentioned; and upon the appointment by the Governor of the State of Washington of a responsible and bonded administrator, or such other person as may be appointed, he shall confer and advise with the members of the United States section of this commission, and shall have access to all claims and other information in the custody of said section, and such administrator or other person shall make a detailed list of awards to the various persons damaged by said fumes, and he shall allot to each individual claimant that part of the total sum of $350,000 to which such individual is entitled. Said administrator or other person shall be the sole and final judge of all questions referred to him, and no appeal shall lie from his decisions; and, having perfected his list of awards as aforesaid, he shall distribute the fund by check drawn against said trust fund and take and accept proper receipts therefor, which said receipts shall be a full and complete release of the parties signing the same to all claim upon said fund.

3. The said sum of $350,000 does not include any allowance for indemnity for damage to the lands of the Government of the United States. No claim was presented to the commission in respect thereof, and counsel for the Government of the United States at the last public hearing announced that any claim in connection with such lands was withdrawn. The commission, therefore, finds that any claim of the Government of the United States for past damages in respect of said lands has been waived.

4. The commission further finds and recommends that Stevens County is entitled to compensation for damage to property owned by it within said zones, but that said county is not entitled to indemnity for alleged loss of taxes by reason of such fumes, such claim being regarded by the commission as too remote and indefinite to permit of adjudication herein.

5. The commission does not recommend any indemnity for alleged loss of trade by business men or loss of clientele or income by professional men resident in the city of Northport, within the said zones, such claims being regarded by the commission as too remote and indefinite to permit of adjudication herein.

Signed in the city of Toronto on Saturday, February 28, 1931.

C. A. MAGRATH.
JOHN H. BARTLETT.
W. H. HEARST.
P. J. MCCUMBER.
GEO. W. KYTE.
A. O. STANLEY.

Mr. DILL. I shall not go into a discussion of the details of the report at this time. The report was unanimous. It proposes to pay $350,000 to the farmers for damages and then makes certain provisions as to future damages which we believe give practically no protection at all. My complaint is directed not so much at the amount of damages, although I think they are exceedingly low, as to the failure of the commission to forbid, absolutely, a continuation of these fumes coming into this country. Especially is my criticism directed at the Secretary of State for allowing almost two years to pass without action, while these fumes continue to come across the border and one by one drive these poor families out of that territory. I know there are not many in number—a few hundred at most. I know their lands are not vast nor of as great production as in some sections of the country. But they are citizens of this country and they have a right to expect that their Government will protect them against the ravages of a foreign corporation against which they can not peacefully protect themselves.

I have been to the State Department again and again, and again, asking the Secretary of State to take some action. If he does not want to approve the report, then let him refer it back to the commission or take up its amendment. It has been suggested that the matter be referred to arbitration. What I want is that something shall be done. What we insist now is that something shall be done in order that our own citizens shall not further suffer at the hands of a greedy corporation that will not consider their rights as they should be considered.

The Senator from South Carolina [Mr. SMITH] asks me sotto voce if the fumes are still coming across the border. I may say to the Senator that the report of the commission which was made last year provides that by January 1, 1932, the smelter shall equip its plant so that no more poison fumes of sufficient amount to injure the production on the American side of the border shall be possible, and yet this summer, in 1932, I was informed by those who live there and those who visited there that the destruction continues even worse than before. That it can continue in a country like ours with a friendly neighbor seems almost beyond belief, and yet I can not blame the Government of Canada for doing nothing when our own officials sit silent and motionless while our own people are driven out one by one and that country becomes a waste, ruined forever, because this poisonous gas settles on the land, settles in the timber and on the crops, and works its way into the very soil and is absorbed there, and it will take a number of years to bring the land back to decent productivity even if we stop absolutely the coming of the fumes at this time. If this smelter plant were in our own country, the courts would compel the company either to pay full damages for property they did not own or to put a stop to the sending of the fumes into the air.

Mr. KING. Mr. President——

The VICE PRESIDENT. Does the Senator from Washington yield to the Senator from Utah?

Mr. DILL. Certainly.

Mr. KING. May I say to the Senator that I have listened with interest to his observations. I think the smelting company at an expenditure not too great might prevent a repetition of these wrongs.

If I may be pardoned a personal allusion, a number of years ago we had four smelters operating in the valley in which I live. I, with another attorney, was employed by the farmers in order to stop the dissemination of the poisonous gases. We brought an injunction suit. The case was carried to the Supreme Court of the United States. We obtained injunctive relief as well as damages. The smelters were inhibited from continuing operations until and unless there were installed as a part of their mechanical plant such necessary improvements as would arrest not only the gases but the solids and other poisonous substances which emanated from the smelter. Later we modified the decree with respect to two smelters. Two of them were torn down and moved away. As modified the decree permitted the smelters to operate provided they would install devices to arrest the arsenical and other solids that were distributed from the smelter. This was done and two of them have been permitted to operate.

The smelters operating in Canada could very easily install all necessary appliances to prevent a continuation of this condition. It seems to me our Government has been derelict in failing to insist upon ample protection for American citizens.

Mr. DILL. I thank the Senator for that statement. Our Secretary of State has been especially derelict in not taking some steps to see to it, after the commission had made its report, that the report is not accepted or some amendments made which would enable the department to accept it.

At this point, Mr. President, I ask permission to insert in the RECORD the protests of the representatives of the farmers of that section who are afflicted, calling attention of the Department of State to the failure of the report to give them proper relief.

The VICE PRESIDENT. Without objection, it is so ordered.

The matter referred to is as follows:

COLVILLE, WASH., *March 21, 1931.*

Re: Trail smelter reference.

The honorable the SECRETARY OF STATE,
Washington, D. C.

SIR: The undersigned, representing the major portion of claimants in the matter of damage in the State of Washington caused by the fumes from the smelter of the Consolidated Mining & Smelting Co. of Canada (Ltd.), desire to present and file herewith their objections to the acceptance by the Government of the United States of the report of the International Joint Commission under date of February 28, 1931.

I. (1) EXTENT OF DAMAGE

The commission limits the extent of damage to what is known as the Hedgcock zones as determined by investigations conducted

in 1928 and 1929. At the final hearing in Washington in January, 1930, Doctor Hedgcock testified that some of the area outside of his zones appeared to be injured but were not investigated owing to lack of time, and such areas were indicated by question marks which appear on the map filed with the commission. (Hedgcock, p. 277.) In 1930 these areas were checked by Doctor Hedgcock, and his 1929 zones were extended. Inasmuch as the commission has gone outside of the record and awarded damages for 1930 and 1931, the Hedgcock map as completed in 1930 should have been accepted by the commission as a basis upon which to award damages up to January 1, 1932.

Mr. S. W. Griffin, United States chemist, found significant concentrations of SO_2 outside of the Hedgcock map of 1929. (Griffin, Exhibit 2a.) Dr. M. C. Goldsworthy, United States pathologist, discovered visible crop markings from SO_2 beyond the Hedgcock zones of 1929. (Goldsworthy, No. 4.) In 1930, it is understood, Doctor Goldsworthy found severe crop burns from SO_2 over a greater area than in 1929. Uncontradicted affidavits of claimants beyond the Hedgcock zones established in 1929 clearly indicate SO_2 injury. It is thus apparent that the area fixed by the commission falls considerably short of that determined at the Washington hearing and by subsequent scientific investigation.

(2) AMOUNT OF INDEMNITY FOR PAST DAMAGES

The commission reports that in view of proposed fumes reduction in 1931, damage up to January 1, 1932, should be fixed at $350,000. This does not include any damage after that date. The propriety of awarding past damages as a final and complete settlement unless and until it is established that such drainage will definitely and ultimately cease is open to serious objection. There is no assurance, based on the record herein, that SO_2 damage will cease within any given time. The probabilities, based on the record, are that SO_2 damage will continue in Stevens County for an indefinite future time. If the damage is to continue indefinitely into the future, as will be shown later, then there is no legal standard whereby past damages can be measured in this class of injury. The law declares that such damage is immeasurable and irreparable.

The award of $350,000 is less than 10 per cent of the values affected in the zone of damage fixed by the commission. Under the record herein, it is wholly inadequate. Injury to some of the property in upper Stevens County had commenced at least 15 years ago; in most of the balance of the area damage has been apparent for 7 years last past. Much of the area in Hedgcock zone 1 is totally ruined, even though SO_2 fumes were now wholly stopped, which has not been done. Arrested development, loss of market values, ruined reputation of the area, continuing hazard, prospective fruitless litigation, and other elements of damage recognized by law, have obviously been ignored. If the report of the commission is accepted, the usual remedy of injunction or immediate curtailment is definitely denied. The company is thus permitted to appropriate lands in Stevens County for an indefinite future period, in addition to the time already elapsed. Claimants are left, therefore, without effective, adequate or speedy remedy. An award of past damages alone is wholly inadequate. There should be a full and complete legal award at this time in an amount sufficient to compensate claimants for all elements of damage.

(3) PROBABLE EFFECT OF FUTURE OPERATIONS OF THE SMELTER

The commission reports that if the smelter company proceeds with fertilizer units and carries out the recommendations under subdivision (5) hereunder that SO_2 damage in Stevens County should be greatly reduced, if not entirely eliminated, by the end of 1931. This conclusion, it is submitted, is contrary to the facts revealed by the record in this reference. A full discussion of this point will be found under (5) hereafter.

(4) METHOD OF INDEMNITY PROVIDED FOR DAMAGES CAUSED BY FUTURE OPERATIONS OF THE SMELTER

The commission recommends that if a damage complaint is made after January 1, 1932, if the claim is not adjusted by the company within a reasonable time, then the Governments of the United States and Canada shall determine the amount of damage, and the amount so found shall be paid by the company forthwith. That there will be damage after January 1, 1932, can not be successfully denied. There were claims of damage in 1923 or 1924, according to Mr. Blaylock, when there was much less than one-half of the present sulphur emitted, and at a time before the stacks were elevated. Claimants do not wish to submit to future damages or the constant threat thereof. They desire present relief, either in the immediate stoppage of harmful SO_2 fumes settling upon their lands or by a present award of adequate compensation, so that if the fumes are to continue they might go elsewhere, reestablish themselves, and live under normal conditions. They have struggled for years in an effort to gain redress through their Government and the commission. Claimants do not desire to be subjected to further prolonged disputes with this company as to the fact and amount of damage, especially in view of the limitations and conditions sought to be imposed upon them for the future. They have already had ample controversy and, we respectfully submit, with most unsatisfactory results. From past experience it is evident that the company and claimants can not agree to fact and amount of damage. It will then become necessary for our Government to conduct further scientific investigations, and the commission will doubtless make further awards. Hundreds of American citizens should not be required against their will to submit to this unbearable situation. The position of claimants in this respect was stated to the commission by Attorney John T. Raftis at the Northport hearing in October, 1928, in the following language:

"The members of this association are not primarily interested or concerned with the question of damages. They have not created, nor have they in any way encouraged, this present situation. They have protested against it with vigor since the first sign of fumes and smoke damage began to appear. They have taken up homesteads or purchased property here; they own this property; this is the abode of their choice as free citizens; here they have built their homes and have raised or are raising their families, and they have many tender memories and associations among these hills and valleys, and they feel that they have every right to protest and to deny to this smelter company the privilege, in the name of private gain, to partially or wholly destroy their property and natural and human rights, simply because dividends might be less if proper construction and operation are provided to control these gases and fumes, or because it might work some hardship on the smelter company, which alone is responsible for the present dispute. This association wishes the question settled at this time once and for all. Its members do not care to pass the hat from year to year for crop or seasonal damages, and this method of handling the question is not acceptable in any degree."

At the conclusion of the Washington hearing in 1930, counsel for the Government of the United States made use of this very appropriate expression:

"Economic damage is but a small part of the problem. The farmers desire to operate their farms without trespass or interference. They do not desire to labor under the burden of having their crops injured, even though some compensation may be made therefor; nor do they desire to face a future holding unknown factors such as the possibility of fatal crop injuries, inadequate compensation, prolonged negotiations. They desire to pursue their duties free from hindrances except those arising naturally from conditions subsisting in their vicinity, and they have a right to do so. Facing the menace of these fumes, they are uncertain whether when they sow they shall reap. They are subject to mental turmoil and interference with home and community life. They are under the necessity continuously to reckon with sulphur dioxide. They must be constantly on the alert to observe the effects of the intruder. The constant menace of fumes unquestionably causes substantial injuries to these people. The smelter company has for several years maintained a corps of experts to determine the extent of damage caused to property in the State of Washington. The Government of the United States is spending many thousands of dollars on this problem.

"Is this to continue indefinitely? How are these people to show what their losses actually are day after day and year after year? How can the damages resulting from the loss of credit and the destruction of the market value of their property be determined? How can the property owners be indemnified for unmerchantable timber, injured trees, ornamental shrubbery, and flowers? Etc."

(5) RECOMMENDATIONS MADE IN FAIRNESS TO ALL PARTIES CONCERNED—FUTURE CONTROL OF SO_2 FUMES

We wish to consider now the all-important phase of this reference. In substance, the commission reports that there is now in operation at Trail a fertilizer unit and a pilot plant whereby the sulphur output is reduced by 49 tons per day. It is stated that the company has represented to the commission, obviously since the Washington hearing, that a second fertilizer unit will be in operation in or about May, 1931, and a third unit in or about August, 1931; and that when same are in operation there will be removed exactly 123.6 tons of sulphur daily, or about 35 per cent of the total sulphur output. It is stated that the above will cost over $10,000,000, most of which has been spent. The commission then recommends that the company be required to proceed "as expeditiously as may be reasonably possible" with the above works, and also to erect "with due despatch" such further units and take such further or other action as may be necessary to reduce SO_2 concentrations to a point where there will be no further damage in the United States.

It is then recommended that when the company has reduced the harmful SO_2 to a point where it claims it will do no further damage in the United States, the company shall then notify the Government of Canada, which shall forthwith notify the United States Government, which may then take up the matter with the Canadian Government to determine if the SO_2 has been so reduced. The question of whether the company is proceeding "expeditiously" may be taken up at any time by the United States Government with the Canadian Government. If the conditions herein are fully met, there is to be no future indemnity, except as below provided. The commission then defines "future damage" to mean only "appreciable" damage, and, for the purpose of considering the efficacy of fumes control, this does not include "occasional" damage caused by "air pockets" or "unusual atmospheric conditions."

Inasmuch as the reports of the commission on (3) and (5) are closely related, it is proposed to discuss them together.

In its recommendations upon (3), the commission says:

"*Provided*, That the company having commenced the installation and operation of works for the reduction of such fumes, proceeds with such works and carries out the recommendation of the commission set forth in answer to question (5), the damage from such fumes should be greatly reduced, if not entirely eliminated, by the end of the present year."

In our view, there is no convincing testimony which justifies the conclusion that the damages will be greatly reduced or elim-

inated by the end of the year 1931; and, hence, an award of damages at this time, based upon such assumption, is unjustified and contrary to the record evidence. Mr. Blaylock testified (pp. 3564–5) that the present output of sulphur from the stacks of the smelter is from 300 to 350 tons daily, or 600 to 700 tons of SO_2. The only basis for the belief of the commission that the damage will cease by 1932 is the testimony of Manager Blaylock as to the present plans of the company for reduction of sulphur output by the construction of fertilizer or acid plants, and his opinion, or hope rather (as he makes no assurance), of the probable effect of such construction.

This is the installation referred to on page 3 of the commission's report, whereby 35 per cent of the fumes are to be extracted in or about August, 1931. Now, this is the only installation contemplated by the company in 1931, and, hence, it must be upon this installation that the commission bases its opinion that the damage will be greatly reduced, if not entirely eliminated, by the end of 1931. Mr. Blaylock testified (p. 3572) that nothing is being done with reference to further installation, and that unless the company can sell the fertilizer produced by this first installation further units are not contemplated (pp. 3640, 3745), and a further installation by the end of 1931 would be improbable.

There is no reason based on the record herein that this first installation will remove SO_2 damage in Stevens County, or even greatly reduce such damage. Mr. Blaylock himself testified that he can not guarantee that there will be no further damage (p. 3715). While he stated that he believed that the hazard would be eliminated, yet he stated that it was absolutely theoretical (pp. 3575–6).

Furthermore, positive proof in the record shows that such damage will not cease. The commission reports that this first installation will remove 35 per cent, or 123.6 tons of sulphur daily, still leaving an emission of 229.4 tons of sulphur daily, or 83,731 tons per year. The sulphur tonnage emitted would then be reduced to about that of 1925, when it was 83,090 tons (p. 3610). This was before the effects of the high stacks became apparent; yet there was complaint of damage as early as 1924 (pp. 3671, 3680, 3692), at a time when there was but 61,000 tons yearly with low stacks (p. 3612).

Mr. Blaylock testified that taking out a certain per cent from the stacks does not mean that there will be a less per cent of SO_2 over the entire area (pp. 3575–6). Even granting this were true, it is instructive to examine some of the concentrations found in Stevens County, in the light of the proposed reduction of 35 per cent.

A concentration of 1.16 parts of SO_2 per million parts of air by volume was found by Mr. S. W. Griffin, United States chemist (p. 3574). The following question was asked of Mr. Blaylock by Mr. Kyte of the commission (p. 3575):

"Mr. KYTE. When your present unit is working and you have extracted 30 per cent of the SO_2, will you tell us how and in what proportion that 1.16 will be divided?

"Mr. BLAYLOCK. Of course, that is almost impossible. It is impossible to state because you may get a wind pocket that can do pretty nearly anything, but the mathematical average will give you a fair indication of what you can expect. I would imagine that, generally speaking, your concentrations will be largely in proportion to the amount of sulphur emitted. That does not necessarily follow, because a wind pocket can take smoke along, but it is less likely to do that to that extent, I think. But that is absolutely theoretical."

But, granting that a 35 per cent reduction in the smelter stack emission is brought about, we will still have a damaging concentration throughout the area. The 1.16 parts per million would be reduced to 0.75 parts per million. The concentration found by Doctor Neidig at Northport on August 28, 1928, would be reduced to 1.43. At point or station 26 on Griffin Exhibit 2a, at the Rettinger place near Bossburg, the concentration of 0.58 would still be 0.377. The concentration of 0.96 found by Doctor Whitby on Deep Creek would still be 0.624, and the concentration of 0.64 South of Marble would still be 0.416, at a point more than 30 miles south of Trail by the Columbia River. At station 13, northwest of Northport, the concentration of 1.00 found by Mr. Griffin would still be 0.65. There is absolutely no assurance that any or all of these concentrations will not increase at any time, as there is no way by which same can be forecast.

It will be noted that the experiments conducted by Mr. Griffin and Doctor Fisher at Wenatchee, Wash., revealed injury with a concentration of but 0.40, or in an amount not greater than the concentration that will exist after the installation of the acid plants and their reduction by 35 per cent of the sulphur emission at Trail. It is believed that experiments conducted at Wenatchee since the Washington hearing may reveal positive damage at a less concentration than 0.40, though we are not advised of such findings.

There is another significant fact which demonstrates that the proposed installation in 1931 will not remove damage in Stevens County. There will still be an emission of 229.4 tons of sulphur per day, with high stacks, and the prevailing winds are down the river toward Stevens County, the international boundary being about 11 miles along the Columbia River from Trail. The stacks were raised 409 feet in 1924 and 1925, and this increased height, in the words of Mr. Griffin (p. 45) "transferred an acute problem from the immediate locality to a locality farther removed from the smelter"—in other words, to the farmers and landowners of Stevens County.

There is no security, no definite promise or assurance of any positive reduction of fumes, and the curtailment plan suggested by the commission, with the limitations and conditions imposed, affords no present relief or the promise of anything definite for the future.

There is another salient feature disclosed by the record, which supports the view that, even with the present proposed installation of acid plants removing 35 per cent of the sulphur emitted from the smelter stacks, there will still be damage in Stevens County, and that is this:

Between the years 1916 and 1921 there was in operation at Northport a small smelter, known as the Northport Smelter (pp. 2069, 2733). This smelter, in the opinion of Mr. Blaylock, emitted not to exceed 75 tons of sulphur per day (p. 3734), and probably less. With this amount, Mr. Lathe found damage to timber at the boundary, north of Northport, 9 miles from the Northport Smelter, and against the prevailing winds (pp. 2135, 2139, 2175). Now, in the face of a small smelter, with low stacks, emitting not to exceed 75 tons of sulphur per day, causing damage 9 miles distant against the prevailing winds, how can it reasonably or consistently be expected that a huge smelter, only 11 miles from the boundary by the river route, and much closer by direct line, with stacks 409 feet high, emitting, after the installations proposed in 1931, 229.4 tons of sulphur daily, or over three times that of the Northport Smelter, will not cause continued and serious damage in Stevens County, with topography and prevailing winds ever favorable to such damage?

There is no reason to expect that the proposed installations will remove the damage in Stevens County, and they are the only installations proposed for 1931, and no more could be erected in that year, as the evidence will show that it has been over two years since the company first determined to construct the installations now in contemplation, and they are not as yet completed or in operation. Mr. Blaylock states that no more units will be built unless the products of the first units can be sold (pp. 3572, 3573, 3594), and he gives no assurance that these first units will remove injury in Stevens County—he gives expression only to a theory or an opinion which, in the light of the facts heretofore referred to, can amount to no more than a hope.

The commission recommends, in answer to question (5) that the said works now proposed for 1931 be constructed "as expeditiously as may be reasonably possible," and that such other works be erected as may be necessary to prevent fumes damage in the United States, and that the respective Governments appoint scientists to report on the progress of the work and what further steps, if any, may be necessary to prevent such damage.

The attitude of claimants has always been, and now is, that they desire these damaging fumes stopped; this is their legal right under the laws of their State and of the United States, yet the fumes continue as the years roll by. The difficulty with the commission's recommendation is that it offers no hope of any stoppage within any definite or reasonable time, and this is especially true when the language in paragraphs (c) and (d) under question (5) is considered. The scientists to be appointed by the two Governments to report upon the progress of the work and what further steps are necessary may not agree either on, first, what constitutes "reasonable" progress; or, second, what further steps are necessary. And though it were possible for them to agree, yet if past experience is any criterion, it may be only after the lapse of a long period of indeterminate time, during which damage in Stevens County will doubtless continue.

And then, again, whenever, in the judgment of the smelter officials, their installations are adequate to prevent further damage in the United States—and the evidence shows that such claim will be made upon the completion of the units now in construction, for Mr. Blaylock says he believes they will remove such damage—then the fact must be determined by prolonged scientific inquiry by the two Governments, and so on ad infinitum after the delayed installation of any recommended unit agreed upon after interminable scientific investigation.

But to add to the difficulties and to further make the cessation of the fumes a problem utterly incapable of solution within any time at all reasonable to the minds of thinking men, the commission in paragraph (g) of their answer to question (5), states that the word "damage" as used in the report shall mean and include such damages as the Governments of the United States and Canada may deem "appreciable," and for the purposes of paragraphs (a) and (c) shall not include "occasional" damages that may be caused by SO_2 fumes being carried across the boundary line in "air pockets" or by reason of "unusual atmospheric conditions." In other words, and in effect, declaring that such damages, even though they be found "appreciable," yet if only "occasional" or due to "unusual atmospheric conditions" or "air pockets" shall not be considered in determining the efficacy of any installation to stop the damage. This leaves the whole matter of curtailment so uncertain and indefinite that no claimant can ever hope to see assured stoppage of damaging SO_2 fumes in Stevens County.

In the first place, any damage occurring may be considered by the company as not "appreciable." This at once gives rise to a controverted question which must be determined by the two governments after scientific investigation. If determined to be appreciable, then it must be asked, "Was it due to unusual atmospheric conditions or to an air pocket?" and thus additional prolonged scientific investigation.

What constitutes "unusual atmospheric conditions"? What constitutes a "wind pocket" or an "air pocket"? How, if certain damage is found to be appreciable, can it be determined,

after the damage has been inflicted and the damaging agency is gone, if, at that particular time, a wind pocket existed? Or that unusual atmospheric conditions prevailed?

Just to illustrate the difficulty: What are unusual atmospheric conditions? Mr. Blaylock stated in answer to a question by Chairman Bartlett (p. 3587):

"Chairman BARTLETT. To be sure that you would not get any SO_2 greater than half of a per cent down below the boundary, how much do you think you would have to cut down?

"Mr. BLAYLOCK. That goes back to really where we began, because you could not get any SO_2 to-day were it not for extreme conditions of wind. You would have to shut down entirely."

The record shows that there is SO_2 in Stevens County two out of every three days, and Mr. Griffin testified the gas is well mixed with the air a distance from the smelter, and that the stream is quite constant (p. 262). The record further shows that the damage in Stevens County is mainly from repeated fumigation of SO_2 in relatively low concentrations, which has been verified by the experiments conducted at Wenatchee.

Yet Mr. Blaylock asserts that the only harmful SO_2 in Stevens County is due to extreme conditions of wind, and the commission apparently accepts this view. If this be true, what in the face of extreme conditions of wind are to be considered unusual atmospheric conditions? Is the extreme wind to which the presence is now attributed by Mr. Blaylock an unusual atmospheric condition? How is it ever to be ascertained when a burning by SO_2 takes place and damage occurs whether an unusual atmospheric condition was present at the time? And if unusual atmospheric conditions, such as the extreme winds mentioned by Mr. Blaylock, are frequently present, why should not they be considered in determining the efficacy of the control measures?

And likewise with wind pockets. If a burn takes place and is afterwards discovered, who can later determine that it was a wind pocket that brought down the visiting concentration causing the injury, whether a wind pocket was at the time present? Will it be said that if at any time a burn takes place where burns had not occurred before it must be due to a wind pocket? Damage does not always occur in the same spot.

If the report is accepted as rendered, the result is interminable investigation, dispute, and controversy that can never be settled. The claimants are still left to hazard and uncertainty. If our Government determines that it has no alternative but to accept this report, then it is the duty of our Government to first see that its citizens are not deprived of their rights and property without just compensation or due process of law. To merely say that damages suffered after January 1, 1932, will be paid for does not suffice, as no unoffending citizen should be required against his will to plant a crop to harvest a claim for damages to be awarded after prolonged scientific dispute and investigation, and most likely in an amount not worth the effort required to secure it. To leave the lands of these claimants subject to such future hazards and uncertainties is to destroy their beneficial use and market value, as no normal person will purchase or attempt to hold lands subject to such burdens.

II. METHOD OF DISTRIBUTION OF AWARD

The commission recommends that the sum of $350,000 awarded be paid into the Treasury of the United States as a trust fund for damaged claimants; that upon the appointment by the Governor of the State of Washington of a bonded administrator, or such other person as may be appointed, such appointee shall confer with members of the United States section of the commission, and shall have access to claims and all information, and he shall make a detailed list of awards and allot same to individual claimants. He shall be the sole and final judge of the questions referred to him, with no right of appeal. After the awards are made, he shall draw checks upon such fund, and take receipts therefor, which shall be a complete release upon such fund.

Assuming that an adequate award had been made herein, the method suggested for distribution is unworkable and unsatisfactory. On the face of the commission's report, it would appear that a lump sum award of $350,000 had been agreed upon by the commission. This no doubt was arrived at either by a general blanket award, or by first assessing and totaling the damage suffered by each claimant. If the award was determined by a lump sum method, it is submitted it is without basis in fact as revealed by the record. If it was determined by first assessing the damage suffered by each claimant, then it would appear that the commission should itself have announced the award made for each claimant. It is assumed that the commission made a thorough analysis of each claim filed. The commission asks that a person now be appointed to make an allotment to the claimants of this award, working through the American section of the commission.

From the report it appears that this appointee must furnish bond. He will doubtless be paid a salary and necessary expenses in making the allotment of the award. He will doubtless have to investigate and appraise each claim filed. Appraisals in the area may be necessary, which will require assistance and expense. No method is provided for payment of these contingent items, and they will no doubt be paid from the $350,000 award.

If the Governor of the State of Washington appoints such administrator, the appointment will be publicly regarded as political. The person appointed will unquestionably be subjected to pressure and influence from opposing interests. The net result will be that the claimants themselves will finally be drawn into unpleasant controversy and dissension concerning appraisals, values, and individual awards. It is submitted that the commission itself, which has heard and studied this question, is the logical agency to make any adequate award which finally is made herein.

To point out the hopelessness of this appointee's making a satisfactory distribution of this or any award we need but consider the following: Claims were filed by the Upper Columbia Co. for about $600,000, by S. W. O'Brien for $300,000, by Dr. A. Sophian for $500,000, by Stevens County for about $250,000, by the Long Lake Lumber Co. for about $200,000, and by other persons and agencies for proportionately large amounts. Much of this property is in the worst damaged zone of injury as reported by the commission. Practically undisputed law and evidence have been submitted in support of these various claims. Then there are in the neighborhood of 700 individual claimants. If SO_2 fumes are to drift in and upon Stevens County indefinitely, as now appears, it is beyond understanding how this appointee can distribute this $350,000 or any award on an equitable or reasonably satisfactory basis.

III. CLAIM OF THE UNITED STATES

The commission reports that the $350,000 award does not include any allowance on lands owned by the United States, such claim being deemed waived. This is the concern of our Government, and any comment on our part is deemed inappropriate.

IV. CLAIM OF STEVENS COUNTY, WASH.

The commission recommends that Stevens County should recover damage to property owned by the county, but not for loss of taxes and revenue. The county is represented by other counsel, and no comment is made in this regard.

V. TRADE AND BUSINESS LOSSES

The commission recommends that no indemnity be allowed for loss of trade or income by business and professional men of Northport.

The record clearly demonstrates that financial losses have been and will be suffered by business and professional men in Northport due to arrested development, abnormal depression, and hardship brought about by this long-continuing fumes situation. If damage were definitely stopped at this time and the future made secure, there would be some hope in the future for those persons engaged in legitimate enterprises which depend upon the economic life and growth of the area. With a continuing nuisance and hazard, the area is almost certain to be rapidly depopulated, with consequent loss of business and trade.

IN CONCLUSION

In view of the foregoing, the undersigned, speaking on behalf of those whose rights they represent, respectfully request that the Government of the United States do not accept or accede to the report of the International Joint Commission as rendered, and that such Government take steps to protect and safeguard the rights and property of its citizens in accordance with law and the facts as revealed by the record in this reference. Claimants can not abide by the report or the award stated therein.

JOHN T. RAFTIS,
F. M. TURNER,
WENTZ & BAILEY,
Attorneys representing various claimants herein.

Mr. SMITH. Mr. President——

The VICE PRESIDENT. Does the Senator from Washington yield to the Senator from South Carolina?

Mr. DILL. Certainly.

Mr. SMITH. The findings of the commission are embodied in the report, I understand.

Mr. DILL. Yes.

Mr. SMITH. The report was joined in by the Canadian commissioner?

Mr. DILL. Yes.

Mr. SMITH. In order to make it effective, what steps are necessary?

Mr. DILL. The Secretary of State must accept it, and it would probably involve a treaty agreement between the Canadian Government and this Government, but we can do nothing until the Secretary of State acts. It is of his delay that I complain. I may say to the Senator that there was a period of seven years—from 1924 to 1931—spent in getting even a recommendation from an international body for settlement, and nearly two years have passed since such a report was obtained without any action on the part of the Department of State. During these nine years the fumes have continued to float across the boundary and destroy the lands, the livestock, the homes, the very lives of American citizens. They have petitioned and protested. They have hoped and prayed. One by one they have been forced to desert all they have been able to accumulate during the years they lived, and all in the name of profits of a foreign corporation bent on dividends, and still more dividends, for its stockholders.

I have been to the State Department repeatedly. The report was made public in March, 1931. I have a letter

from Secretary of State Stimson dated April 13, 1931, in which he refers to my letter to him and saying that they are giving the matter earnest attention and that they are going to give the matter consideration and act on it. Then on March 25, 1932, this present year, I had another letter from Secretary of State Stimson saying that they would take action in the near future; but some nine months have elapsed and still nothing has been done.

During the summer, on August 18, 1932, I wrote the President of the United States and called attention to the fact that a year and a half had passed since this report had been made, that the Secretary of State had done nothing, and appealing to the President in the name of these citizens to ask the Secretary of State to take some action. I did not give the letter to the press because it was in the midst of the campaign and I did not want to make any political propaganda of it. I wanted some results for those people. That letter was written August 10. Under date of August 18 I had a letter from the President stating, "I have your letter of August 10. I am taking the matter up with the State Department." I assume that he did so, but we have had no results. My letter to the President was as follows:

SPOKANE, WASH., *August 10, 1932.*

HON. HERBERT HOOVER,
President of the United States,
White House, Washington, D. C.

DEAR MR. PRESIDENT: For the last five or six years the people of the northern part of Stevens County, in the State of Washington, have suffered tremendous damages to their crops and their property generally because of the poison fumes from the smelter at Trail, British Columbia.

Through the State Department this matter was referred to the International Joint Commission, and the commission made a recommendation about a year and a half ago proposing an award of $350,000 to those whose property had been damaged, and also providing that the smelter should stop the fumes from coming across the line to such an extent as to protect property of American citizens from further destruction.

The State Department has postponed action on this matter from time to time. I have repeatedly called upon officials in the department, and I have talked especially with Mr. Stimson and Mr. Castle about it. Under the terms of that report the smelter was to extract the poison from the fumes to such an amount as to stop destruction after January, 1932. People from that region tell me that the destruction has not only not stopped but is worse than it previously was. While the people affected think the recommendation of the payment of $350,000 for damages is too small, they are most disappointed and injured by no action being taken by the State Department.

A few days ago I appealed to Secretary Stimson for confirmation of a report made to me by my secretary that the State Department would take no action on the recommendation because the people of the State of Washington were opposed to it. I have a telegram from William R. Castle, acting Secretary of State, in which he says that the department has made no ruling and indicated no views on it, and then adds, "Early action has not been considered advisable pending developments, but the case is receiving constant attention."

This means more delay. One by one the families in that region are being driven out because of the destruction of their crops by the fumes. It seems to me indefensible that the State Department should delay and delay action until our citizens are all forced out and the country is a barren waste.

I appeal to you as President to call this matter to the attention of Mr. Stimson and his assistants and have them take action one way or another regarding this report. American citizens who have been damaged have waited long enough. Surely justice demands some action now.

Trusting you will give this matter your personal attention, I am,
Sincerely yours,

C. C. DILL.

When I arrived in Washington from my home to attend the opening of this session of the Congress I again took up the matter with officials of the State Department, and still they do not indicate when they are going to act. They are still waiting while our people are suffering and have no protection and no damages.

I insist there is no defense for a continuation of this delay. I believe that the negligence, the indifference of the State Department to the wrongs and sufferings of the people of the State of Washington, for whom I speak here, make it incumbent eventually that those people shall be paid the damages they have suffered, and if our Government is unable through diplomatic methods to secure the money from the smelter company which is making these millions of profits, then it ought to be taken from the Treasury of the United States. It is not American that any citizen should suffer at the hands of a foreign corporation as these people have suffered and waited and hoped without avail.

On December 21, 1931, I introduced a resolution (S. J. Res. 67) providing that the Government of the United States should make additional payments over and above the $300,000. I have not asked the Foreign Relations Committee of the Senate to consider it because it would not be fair to expect action on it until the State Department had acted in this matter.

Mr. President, I shall not take time to-day to discuss the many phases of this unequal struggle of these poor farmers to save their land and homes against destruction, but shall only mention a few of them. As I have already pointed out, the Consolidated Mining & Smelting Co. is a wealthy corporation, making immense profits. From the beginning of this struggle it has hired American experts, American attorneys, and American newspaper writers to assist them in justifying their course and making public opinion as favorable as possible.

In the very beginning of this fight they hired Mr. Lon Johnson, who at that time was Lieutenant Governor of the State of Washington, as an attorney to assist them against these farmers. The fact that the lieutenant governor lived in the county seat of Stevens County made this a doubly hard blow for these farmers to bear.

I have in my files a letter from Mr. John Leaden, president of the Farmers Protective Association, of Northport, Wash., written at that time, asking if the farmers could employ me to act as their attorney. In private conversation he explained that they had left but little money on which to live, but they felt that only a United States Senator could compete in official influence with the second highest official of the State government.

When I explained to him I could not under the law act as attorney in any case which involved the United States Government, he plead for a new law which would prevent a lieutenant governor from assisting a corporation of a foreign land when the actions of that corporation were destroying property of American citizens. He and his neighbors could not understand why it should be lawful for the second highest official of the State government to fight them while officials of the Federal Government could not fight for them as attorneys, especially when these citizens were farmers who had spent their lives in creating their little homes which were being destroyed.

Another great handicap to the farmers has been the fact that we have found it necessary to have Congress appropriate money so the Department of Agriculture could investigate the damages, while the Smelter Co. always had plenty of funds to hire all the experts they wanted for that purpose. In 1928 Congress appropriated $40,000 in the deficiency bill for that purpose. We have appropriated the same amount each year since 1928 until last year, when it was cut to $20,000.

In 1931 the Congress appropriated $16,000 for the use of the Public Health Service to study the effects of these fumes on the health of the people, and in 1932, $10,000 was appropriated for the same purpose, but these appropriations were not spent.

The smelter company has not only hired experts to study damages in the valley, but year after year it has leased certain tracts of land and had them intensively cultivated, using an abundance of fertilizer and irrigation water to disprove the claims of the farmers that these fumes were destructive to crops. They were trying thereby again to build up public sentiment against the claims of the farmers.

Ever since these fumes began destroying the productivity of these lands the Federal land bank has refused to loan money to the farmers in this valley, and that, of course, has been another handicap to them. One by one they have been forced to leave, and slowly but surely the production, the population, and even the civilization itself of this valley are being exterminated.

Mr. President, there is one other phase of this question to which I desire to call attention. Early in the struggle of these farmers I urged the Secretary of State to take up with Canada the advisability of negotiating a treaty that would in the future prohibit any corporation on either side of the line building a poison-fume-producing plant without having the consent either of the Government on the other side or of the joint commission, as the treaty might provide. It happens that the valley which is being ruined grows only the ordinary farm crops, with only a few orchards, but there are other valleys running from Canada into the State of Washington and from Canada into other States along the border where, if a poison-fume plant were built and the fumes floated across, as they have here for the last nine years, there would be destroyed literally millions and millions of dollars worth of property. Yet to this hour the Secretary of State has not made even a move toward securing a treaty that would make impossible a repetition of the tragedies that have been occurring in this section as the result of the building of this smelter plant.

I wish to comment upon one other phase of this struggle. Officials of the smelting company have complained that they can not, under the laws of the State of Washington, buy our land, because no foreigner may hold land in the State of Washington. We take the position that nobody in a foreign country has a right to buy our land and destroy it as a resource within our boundaries. If they buy our land and make it a barren waste, they take it from the tax roll; they destroy its productivity; and they, to that extent, destroy our resources. We contend within our own rights that they have no business to destroy our resources, and that their duty is to pay for all the damage they have done and cease sending into this country the poison fumes that will cause further destruction.

Mr. President, I wish to say, in conclusion, that no settlement of this problem can be either satisfactory or just that fails to do two things.

First, provide for the absolute stopping of the poison fumes from this smelter, so that further damage will be impossible to the lands of American citizens within the United States; and,

Second, pay reasonable compensation for the damages already done by the fumes.

This award does neither. The worst feature of it is that it does not compel the stopping of the poison fumes from coming into the United States.

These farmers are poor, their holdings are small, but they are American farmers. Many of them have spent their lives acquiring their little homes. That is all the property they have in the world. Although they have seen them gradually destroyed, they have clung to them in the hope that their Government would protect them. They can not go into Canada and secure the protection of Canadian courts. American courts into which they might go have no jurisdiction over the institution that is destroying their property. Being good citizens, they have refrained from attempting to destroy the institution that has been their tormentor by creating these poison fumes which ruin their crops and homes. I think they have shown great self-restraint under the circumstances; and, for that reason, I think the officials of the Government should show great interest in their efforts to secure justice.

They appealed to their Government for protection. The award of this commission gives them only small damages, and worst of all, fails to protect them against ultimate destruction of their property.

If this great Government does not protect these citizens against damages caused by nationals of a foreign country, then the Government should pay these citizens full compensation for the damages it has permitted foreigners to inflict upon their property. These people can not be expected, in this age of civilization and peace, to use force against the nationals of a foreign country to protect their own property. They have a right to depend upon their own Government to do that, and they have followed that course.

The nationals of a foreign country, whether organized into a greedy corporation, controlling millions and millions of dollars, or whether acting simply as individuals, must not be permitted either to damage the property of American citizens or to destroy the productiveness of American soil.

The officials of this Government should insist that the Canadian Government compel its own nationals to respect the rights of our own people by stopping these fumes and by payment of the damages already caused. To do less than that is to be faithless to their trust.

ADJUSTMENT OF SEED, FEED, AND CROP-PRODUCTION LOANS

Mr. WATSON. Mr. President, I move that the Senate take a recess——

Mr. NORBECK. Mr. President——

The VICE PRESIDENT. Will the Senator from Indiana withhold his motion; and if so, does he yield to the Senator from South Dakota?

Mr. WATSON. I withhold the motion, and yield to the Senator from South Dakota.

Mr. NORBECK. Mr. President, I desire to ask unanimous consent for the immediate consideration of Senate bill 5148, which was reported some time ago unanimously from the Committee on Agriculture and Forestry, and is, of course, now on the calendar. I had an arrangement with the Senator from Oregon [Mr. McNARY] that he would call up the bill this morning, but he is not able to be present. All the bill proposes to do is to give full authority to the Secretary of Agriculture to deal as he may find necessary with cases of indebtedness growing out of seed, feed, and crop production loans extended by the Government. The Secretary of Agriculture, under the bill, may deal with them individually or otherwise.

The VICE PRESIDENT. Let the bill be stated by title.

The LEGISLATIVE CLERK. A bill (S. 5148) authorizing the Secretary of Agriculture to adjust debts owing the United States for seed, feed, and crop-production loans.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the bill was read, considered by unanimous consent, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That the Secretary of Agriculture, upon such terms and conditions as he may deem advisable, is hereby authorized from time to time to collect, extend, adjust, or compromise any debt owing to the United States on account of any seed, feed, or crop-production loan heretofore made under any act of Congress.

Mr. SMITH. Mr. President, the bill (S. 5148) introduced by the Senator from South Dakota [Mr. NORBECK], and passed a few moments ago at his request, was acted upon, I believe, by the committee last week. I was not present at that meeting on account of attendance at another committee which was meeting at the same time.

I presume this bill has grown out of the distress in certain quarters where the farmers have been totally unable to make repayment to the Government. I should like to have the Senator from South Dakota advise me as to what is contemplated by the bill. The reason I ask the question is that I had the Agricultural Department furnish me with the approximate amounts that had been paid back by the several States which had availed themselves of these loans, and I find there is a wide variance in the payment from the different States. For instance, three States I have in mind have paid in cash and in collateral and commodities approximately 90 per cent while in other States and sections the repayments have not exceeded 10 per cent. I should have liked to have had this measure instruct the Secretary of Agriculture to ascertain whether or not it was physically or financially impossible for the States which have made such a small percentage of return to make any greater return, having in view the statement that emanated from the administration some time in the fall that certain sections in the wheat area would not be expected to pay in excess of 25 per cent of the loans until such time as Congress might

determine just what would be its attitude in reference to the other 75 per cent.

It would be manifestly unjust for certain communities and sections to deprive themselves down to the point of actual suffering to meet the demands of the Government while more liberal terms were extended to others; and, in justice to all parties concerned, I did not think there should be such exactions from one section while perhaps like exactions were not made from all sections. The wording of this bill is such as to leave the conditions pretty much as they now stand, without any real investigation as to the ability of the several communities to pay if the same pressure be put on all alike.

To put my inquiry in a word, it is this: Is it the object of the bill to extend certain compromises or relief to those who have been absolutely unable to make any greater payments than they have made?

Mr. NORBECK. Mr. President, I must admit that I am entirely at a loss to know what the policy of the Secretary of Agriculture would be. The policy heretofore has been to collect from those who are able to pay. I think that has been carried too far in some cases; but I do not see that this measure gives the Secretary any additional authority. I think under the law now he can do the very thing this bill will permit him to do, but he has been reluctant to take that view of the matter.

The Senator from North Dakota [Mr. FRAZIER], for instance, told me of one very appealing case. It is impossible to put them all in the same class. Here will be a district where there was almost a complete crop failure. The regulation which went out over the country, saying that if the borrowers will pay 25 per cent, the Government will extend the time for the payment of the rest, is reasonable, but in practical application it does not always work out.

The Senator from North Dakota [Mr. FRAZIER] had a letter from a woman who had lost her husband and who owed a seed loan. The agent came around and said, "You will have to pay 25 per cent now, right away." So she sold the entire crop of this year's production and fell short $1.80 of having enough for the 25 per cent payment. Then the agent came around again and said he would give her two weeks in which to raise the rest of the money.

I do not want a lot of mileage piled up by traveling agents of the Government trying to collect such sums as $1.80 from places where the money can not be found. I think in that case the $1.80 debt ought to be canceled, because we can not get it, anyway, and any other course would merely result in running up a lot of expense.

The Secretary of Agriculture may say that at present he has not any authority to do that. He will have it under this bill in a case of that kind. I think everyone in the United States would take the view that those who are able to pay should pay; but it is recognized that in many sections where there has been a light crop of commodities, of which the price has been very low, there is not enough in the crop in a good many cases to pay the indebtedness if the whole crop were sold. Therefore this bill gives the Secretary of Agriculture the authority to extend the time for payment, not over a certain number of years but from year to year until the borrowers are able to pay.

Mr. SMITH. Mr. President, I think under the law as it now stands the Secretary of Agriculture has power to do exactly what this bill proposes to empower him to do; but in view of my personal experience in collecting these loans, if there is no discrimination, I think it is very well for us to pass the bill if it is to apply throughout. I want it understood that it is to apply throughout the entire United States wherever these loans have been made, and, in cases such as that to which the Senator refers, that the Secretary is directly authorized by law either to strike off the account, to reach a compromise, or to make such terms as he thinks the individual and human elements require.

RECESS

Mr. WATSON. I renew my motion that the Senate take a recess until 12 o'clock noon to-morrow.

The VICE PRESIDENT. The question is on the motion of the Senator from Indiana.

The motion was agreed to; and (at 2 o'clock and 35 minutes p. m.) the Senate, under the order previously entered, took a recess until to-morrow, Thursday, December 22, 1932, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES

WEDNESDAY, DECEMBER 21, 1932

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

By the inspiration of Thy mercy and wisdom, Heavenly Father, do Thou encourage us to follow after love, which is the soul's divinest purpose, life's richest attainment, and the highest vocation of the heavenly world. O bless us with that immortal love which enriches every faculty, unifies all worthy ideals, and harmonizes all true labors. O heart of God, let its tides steal over all our hearts to-day. May not material achievement outrun spiritual acquisition. Bless every officer and Member of this Chamber with unswerving loyalty to the unaging sanctities of a good, upright life. Through Christ our Savior. Amen.

The Journal of the proceedings of yesterday was read and approved.

THE PRINCIPLE OF SUBSIDIES AND SUBVENTIONS IS FUNDAMENTALLY UNECONOMIC AND UNSOUND

Mr. LOZIER. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. LOZIER. Mr. Speaker, a few days ago the House passed the Post Office appropriation bill, providing funds for the Post Office Department for the coming fiscal year. It carried an appropriation of $35,500,000 for the transportation of foreign ocean and air mails. The major portion of these funds will be paid in the form of bounties or subsidies to a few favored shipping companies, which payments are in addition to liberal compensation for transporting our foreign mails.

In the fiscal year of 1931, 27 shipping lines were paid $18,790,765.72 on mail contracts, $15,865,548.97 of which was gratuity or subsidy over and above the standard rates of compensation prescribed by act of Congress. At these statutory rates this service would have cost the Government only $2,925,216.25, or less than one-sixth the amount paid on the improvident contracts made by the Post Office Department under the provisions of the merchant marine act. In the strongest language I could command I have condemned this system of bounties or subsidies as unjust, unreasonable, uneconomic, extravagant, and wasteful. This unjustifiable expenditure of public funds has made it increasingly difficult to balance our National Budget.

Those who defend this riotous dissipation of public funds attempt to justify the practice on patriotic grounds and on the specious plea that by making these princely gifts to shipping lines we are building a great merchant marine to carry international commerce. It is also urged that these subsidized vessels will serve as a naval or military auxiliary in time of war or other national emergency. No thoughtful student of history will assert that a great merchant marine has ever been created or long maintained by Government subsidies. Hothouse methods in the form of bounties, subsidies, or subventions may for a brief period stimulate the building and operation of merchant ships, but when the subsidy is withdrawn the shipping industry languishes and dies.

Subsidies affect the shipping industry in the same manner that digitalis affects a weak heart. To get results the dosage must be constantly increased. It produces a temporary stimulation of the cardiac muscles, elevates the blood pressure, and tends to relieve venous congestion, but this abnormal and unnatural heart action ends when the stimu-

lant is discontinued. Opiates temporarily inflame the imagination and deaden the paroxysm of pain, but the effects are transitory and the remedy ineffective unless the dosage is constantly increased until a point is reached where mental and physical collapse is inevitable.

France has granted the most liberal subsidies to her shipping interest, but without substantial increase in her permanent merchant marine. On the other hand, Great Britain has built by far the world's greatest merchant marine without subsidies.

The maritime supremacy of England is not the result of governmental subsidies or hothouse methods, but it is the fruitage of three centuries of continuous, persistent and well-directed efforts to control the world's commerce. For 10 generations this passion for commercial supremacy has been bred into the bone and fiber of the English people. It is probably their strongest aspiration and is founded on the necessities of the nation.

The English are at home on the high seas. For centuries from almost every family in England one or more boys, to borrow the language of the psalmist, have gone "down to the sea in ships that do business in great waters." They rode the turbulent billows that mount up to the heaven and then go down again to the depths. They entered distant harbors, and from remote regions they brought back to England incalculable wealth.

Every nation excels all others in some outstanding characteristic. The English are essentially a seafaring people, while the American people are primarily and predominantly a commercial and industrial nation. The American people have not been a seafaring people, largely because that occupation has been less profitable than industrial and commercial activities. For 150 years practically all of the energies of the American people have been utilized in the development of our rich, natural resources and in building up commercial and industrial structures, with which those of other nations can not be compared.

If the time comes when maritime activities offer as much and as sure profits as industrial and commercial pursuits, then we may expect the American people to enter upon a more comprehensive maritime program and develop an efficient self-supporting merchant marine and a seafaring instinct. But as long as shipping activities are unprofitable, or less profitable than industrial or commercial pursuits, no subsidies, bounties, subventions, hothouse methods, or governmental favoritism will influence the hard-headed American business man to invest his funds in shipping lines. No great merchant marine has ever been built up and long maintained by subsidies, such as are being granted to a few favored steamship lines under the merchant marine act.

The maritime greatness and world commerce of England began under very peculiar conditions. About 1586 Sir Francis Drake captured a large Portuguese ship on which was found a rich cargo of oriental wares and papers descriptive of the East India trade. This excited the interest of the English in Asiatic commerce. In 1593 one of Sir Walter Raleigh's ships, under the command of Sir John Burroughs, captured a Portuguese ship of 1,600 tons burden and carrying 700 men and 36 brass cannon. When this vessel was brought to Dartsmouth its size greatly exceeded any English ship. The cargo consisted of gold, silk, porcelain, pearls, drugs, ivory, calico, and spices. This ship and cargo awakened the interest of the English people to a realization of the riches of the Orient, and they began to plan to get a part of the East Indian trade. In 1599 the London company was organized, receiving its charter in 1600, under the name of the Governor and Company of Merchants of London Trading in the East Indias. It opened up trade with India which brought England immeasurable wealth, and India is still one of the best markets for English products. This company enjoyed a monopoly on the East Indian trade until 1814, when India was opened to all other merchants and traders.

In 1581 Queen Elizabeth granted a company of London merchants a charter, giving them an exclusive privilege to trade with Turkey for seven years. It was renewed in 1593 and again by James I, who made its charter perpetual. This company held a monopoly on the trade with Turkey and the Levantine region until 1803.

In 1555 a company of merchants obtained from Queen Mary exclusive right to trade with Russia in the East. Until nearly the close of the eighteenth century this company enjoyed an exclusive monopoly of the trade with Russia, Armenia, Media, Persia, and the Caspian Sea region.

In 1577 a charter was granted to the Prussia Eastland Co. for exploitation of the trade in the Baltic region. This company controlled the trade with Norway and Sweden. After the privileges of the Hanseatic League were abolished, this company secured the trade that had been controlled for centuries by the confederation of German towns. The Guinea Co. was chartered to control and develop the trade of the West Coast of Africa.

These companies sent their trading vessels into every part of the globe to compete for the world's traffic, and this policy laid the foundation for England's maritime and commercial supremacy.

The Dutch were the most resourceful competitors of the English. England had a very small portion of the foreign traffic in the beginning of the seventeenth century, and Sir Walter Raleigh made a report to King James I in 1604, calling his attention to the maritime superiority of the Dutch and other foreign nations. This is a very interesting document, and shows that Raleigh had a statesman's vision of the value of foreign trade.

The real England was built in the sixteenth, seventeenth, and eighteen centuries. In that period she became "the workshop of the world." By the defeat of Napoleon, England gained Malta, Ceylon, Trinidad, Cape of Good Hope, and other strategic positions; but more than this, she gained practically all the worth-while trade of the world and became the commercial mistress of the earth.

The eighteenth century was the period of English territorial expansion, she having acquired her greatest overseas provinces during that period. The dominant policy of England for the last 200 years has been to keep the markets of the world open for her products. To this end her wars have been fought. Her settlements have been made and her colonies established with that in view. Her whole economic and legislative policies have centered around this purpose. She first adopted a protective tariff policy and afterwards free trade, both to accomplish the same supreme purpose. As one author states—

> Creating and maintaining advantages in commerce had been the chief study of the English people from the time of Elizabeth to the present day.

Napoleon said:

> The English are a nation of merchants. In order to secure for themselves the commerce of the world, they are willing to set the Continent in flames.

On another occasion he exclaimed:

> Wherever wood can swim, there I am sure to find the flag of England.

And when Lord Nelson destroyed the French fleet at Aboukir, Napoleon remarked:

> To France the fates have decreed the empire of the land, to England, that of the sea.

While in the early development of the English shipping industry certain companies were granted monopolistic control of the commerce in certain regions, the phenominal growth of British shipping is not the result of these monopolistic policies. In the open field of competition the English people built up a great merchant marine, which for generations has controlled a larger part of the world's commerce than any other nation. Only a comparatively small portion of English shipping has been fostered by governmental favoritism, and the United States can not develop and permanently maintain a great merchant marine on a subsidy basis.

To be enduring our shipping supremacy must be established in the field of open competition with the merchant marine of other nations. The sooner bounties, subsidies, and

subventions are withdrawn, the better it will be, not only for our merchant marine but for the American people, who should not be called upon to pay these subsidies, especially when they are staggering under an unbearable burden of taxation. The principle of subsidies and subventions is fundamentally uneconomic and unsound.

COMMENTS ON RAILROADS AND OTHER PROBLEMS OF IMPORTANCE

Mr. LAMNECK. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. LAMNECK. Mr. Speaker, present and past experiences with foreign nations should be a warning to us against further entangling alliances. Washington spoke wisely in his Farewell Address. However, the experiences through which we have passed and are now passing were necessary, it appears, to vindicate the wisdom of his words and impress upon us the truth of his prophecy.

France, Belgium, Poland, Greece, and one or two smaller nations have repudiated their war debts. What does this mean? It means that national honor and pride and gratitude have been scattered to the winds. It is a complete reversal of the old saying that "no man is without honor except in his own country." Poland, in her note of repudiation, was apologetic. She said in effect: "We owe you a debt we can never repay." That is a common expression of heartfelt gratitude on the part of many people.

England hesitated long before she came across, with added reservations, which, I am certain, will never be accepted by the incoming National Democratic administration. Italy was prompt to pay, and first. When Mussolini has anything to do, he does it. That is why Italy is prosperous and the people there happy and contented. A university professor, who recently returned from a six months' tour of European countries, including Italy, told me only a day or two ago that the people of that country appear to be in entire ignorance that a depression of unprecedented severity and longevity grips the rest of the world.

What a contrast to conditions in this country. Here want, misery, and woe are depicted in the countenances of millions of men, women, and children. They are broken in spirit and purse, with faith gone and hope abandoned. That is a terrible situation in the midst of plenty and in a country which boasts of a national wealth approximating $375,000,000,000. This, of course, has depreciated along with everything else. However, we have an unimpaired credit as a nation. Why not use it to better conditions?

President Hoover's relief program has apparently failed. The Reconstruction Finance Corporation has distributed millions of dollars to banks, insurance companies, building and loan companies, and aided the railroads of the country to the extent of millions of dollars to meet interest payments, and for other purposes. However, that only took care of one installment, and prepared them to make the grade for this one time. They will soon face the same situation again, and so it is with agriculture, industry, and business in general. What all of these need is permanent relief, at least for a time, which will enable them to recover. A program of that kind would give assurance for the future. This given, they would be able to go.

Moneys loaned banks and building and loan companies are there still. Farm-loan banks are a frost, and that is not good for the crops. Home-loan banks are the joker in the series of relief measures enacted at the last session of Congress. The tax bill—the nuisance tax bill, I might say—has failed to produce expected revenues, falling far short of estimated receipts, with the result that the Government by July 1 will face another deficit of approximately $2,000,000,000. This is the situation that confronts Congress and the people of the country. Congress must find a solution, if bankruptcy is to be averted. Sink or swim appears to be the rule. Everyone is on his back, looking up, but with nothing to look forward to under existing conditions.

Some definite action must be speedily taken to prevent the greatest catastrophe in our national history, if not to avert a revolution. An illustration of the temper of the people was given in the House of Representatives only recently, when a man, with determination written in his face, arose in his place in the gallery of the House and, flourishing a revolver, demanded in a menacing tone his right to be heard in the interest of suffering humanity.

What, then, is the duty of Congress? To enact legislation that will afford at least a measure of relief. An increase in taxes is inevitable, and yet the effect of increased taxation is to add to the burden of the people rather than lighten it. If moneys are to be hoarded in the financial institutions that are supposed to distribute them under the rules and regulations governing loans, there is but one alternative, as I see it, and that is a broadening of the money base of the country that will increase the circulating medium. That would give impetus to agriculture and industry, aid in the rehabilitation of American railways, and afford employment to the millions now idle. When this is done "grass will not grow in the streets."

The gold standard would not be endangered by this procedure. Reports given circulation prior to the election that the gold standard had been endangered a few months before was only a fanciful campaign story, which was immediately discredited by Senator CARTER GLASS, former Secretary of the Treasury under Woodrow Wilson. International bankers knew it was not true, and those generally having a knowledge of currency matters know it was a misrepresentation of the facts, so that no alarm was occasioned and no damage done.

Sentiment in Congress presages the enactment of a sales tax. I opposed such a measure at the last session of Congress. I believed it to be wrong in principle. I think so now; but when necessity calls action is imperative. That is the explanation for my changed attitude. An affirmative vote, however, is contingent upon the exemption of foods and at least certain grades of clothing. The man who wears a $150 suit of clothes and a $100 overcoat ought to pay.

Modification of the Volstead law fixing the alcoholic content of beer and the levying of a tax upon beer now seems a certainty. Secretary of the Treasury Mills estimates that the receipts from this tax will approximate $150,000,000. Reduced governmental expenses shortly, in the grouping of various bureaus, commissions, and boards, will save other millions. The additional taxes to be imposed and the moneys thus saved should greatly improve our financial situation. Taxes imposed upon the people benefit the Government but cripple industry. This is a distinction but not without a difference. However, we are headed in the right direction. With proper changes made in tariff rates we may be able, finally, to work out a solution of these complex problems.

What are the conditions of the country at this time with respect to business in general and industry in particular? I think I can best answer this question by quoting the very latest statistics which reflect the situation of American railways at this time, the adverse effect upon railroad employees, and others dependent upon their successful operation. The table immediately following indicates the decrease in net income. In that way a figure is reached, after the payment of fixed charges, which is the sum available for dividends and other appropriations. The table follows:

	Amount (thousands)
Net railway operating income:	
Year 1929	$1,251,698
Year 1930	868,879
Year 1931	525,628
Eight months, 1932	153,492
Net income:	
Year 1929	896,807
Year 1930	523,908
Year 1931	134,762
Eight months, 1932	173,893

LABOR SUFFERS

The number of employees in the service of large roads in 1929 was 1,660,850. In 1930 this dropped to 1,487,839; in 1931, to 1,258,719; and as of the middle of September, 1932, it was 1,010,422. Because of truck competition and the in-

troduction of improved machinery, it is improbable that railroad employment will return to the highest figure shown. Future normal employment will range somewhere between the high and low figures named.

The following figures give information as to purchases during 1931 of such items as are covered specifically in the statistics received by the Interstate Commerce Commission:

Fuel:	
Bituminous coal	$197,382,901
Anthracite coal	3,906,556
Fuel oil	40,737,709
Gasoline	2,575,255
Rails laid in replacement:	
New rails	44,503,635
Secondhand rails	19,222,909
Rails laid in additional tracks, new lines, and extensions:	
New	2,269,073
Secondhand	3,355,283
Ties laid in replacement:	
Crossties	65,283,654
Switch and bridge ties	8,130,980
Ties laid in additional tracks, new lines, and extensions:	
Crossties	3,726,985
Switch and bridge ties	868,162

In presenting these figures, I should have said that they refer to Class I steam railways. This includes all companies having annual revenues in excess of $1,000,000 and embraces all of the large roads in the country. Their operating revenues represent 98 per cent of the total and other items bear the same relative relationship to other totals. An analysis of these figures shows the tremendous importance of American railway systems to our economic situation when they are prosperous. For instance, the employment figures for 1929 and those for 1932 to the middle of September show a decrease of 650,428. That is a big contribution to the present depression.

And look at the taxes they pay: $10,196,636 to the United States Government, and $293,331,463 other than United States Government taxes, making a grand total of $303,528,099. These figures are not included in the tables presented, but are taken from another tabulation which was omitted. What about competing lines? What do they pay? I refer to busses and trucks which use the public highways, constructed and maintained at public expense. The railroads maintain their own roadbeds, with millions of dollars spent for replacements and other improvements. Busses, it might be said, are unregulated, while steam railways are subject to strict regulations under the Interstate Commerce Commission laws and are subject to all the whims and fancies which inexperienced Government officials may want to add.

Look at their coal bill. Bituminous and anthracite coal used by the railroads in 1931 cost in excess of $200,000,000. That takes a lot of digging, and the coal miners of the country are benefited. Approximately $41,000,000 were expended for fuel oil, and in excess of $2,500,000 for gasoline. The increase of 1 cent per gallon included in the tax bill, with similar increases in the individual States, means something to the railroads. New rails, $44,000,000; secondhand rails, $19,000,000; crossties, $63,000,000; switch and bridge ties, $8,000,000; ties laid in additional tracks, new lines, and extensions, approximately $4,000,000. These purchases mean something to labor. The labor pay roll for 1931 was $2,095,000,000.

It will be noticed that the railroads are in "red" for the first eight months of 1932 approximately $175,000. That is not so much, but it put them to the necessity, even the humiliation, of making application to the Reconstruction Finance Corporation for loans totaling $38,000,000 to pay interest and other pressing obligations.

I want to refer again to busses. They have seriously crippled the passenger business of the railroads, who, for the want of patronage, have been obliged to abandon hundreds, if not thousands, of stations in the country. It costs something to stop a train, and the cost was not worth the fares. I am opposed to the use of the public highways, maintained at public expense, by the bus lines of the country unless they are made to pay for the privilege. They should be brought under strict regulations and made to conform to them, as a matter of fairness and justice to the railroads. Hundreds of millions of dollars are expended by the Federal and separate State governments in constructing and maintaining these highways. In the stress of present times these appropriations could well be suspended. If that were done, the public generally would be benefited although the individual might suffer.

Now another competitive freight line is proposed, namely, the Great Lakes-St. Lawrence deep waterway. Its estimated cost is approximately $600,000,000. Additional millions will be required later to deepen these waterways in order that they may be made navigable for sea-going vessels. Another item that is not included in the estimated cost is that of interest payments during the construction period.

But this is the worst of all. Uncle Sam, true to form, is to advance to the Canadian Government its proportionate share of the cost. Canada will benefit more than the United States, and yet this country is to pay the larger portion of the expense. Finally, the cost will exceed more than a billion dollars, according to the estimates of competent engineers whose judgment, I should say, is perhaps of greater value than that of Government engineers. The whole proposition, to my mind, is not only economically unsound, but its construction, particularly at this time, an absolute absurdity. I want to ask, in all fairness and justice, whether it is fair in this distressing period to impose this additional burden upon the people? My answer is no! It is certain to be detrimental not only to American railroads but to American labor, particularly railway employees.

At most, the construction of the St. Lawrence waterway would benefit but few manufacturers, and few farmers, compared to the whole. Exporters living in close proximity to the Great Lakes would be the chief beneficiaries, unless it were those living overseas, who would take advantage of the cheaper rates claimed to get their goods into this country to compete with American products. The Canadian Government itself would benefit more than this country in the advantages offered, especially in the transportation of wheat. The chances are that New York would lose its chief seaport to Canada. All the benefits that may be claimed for the construction of this waterway would not compare to the injury done to the people of the country, taken as a whole. This waterway would be open to navigation eight months of the year, leaving to the railroads four lean months, with no opportunity to recuperate the losses sustained during the eight months.

The service rendered American cities and American communities by our great system of railroads is incalculable. They are here to stay. Nothing can replace them. Their continuance is an absolute necessity to serve communities. For instance, what would a train of trucks loaded with coal do to traffic? Perhaps it would teach motorists and pedestrians the virtue of greater patience. What could happen, and most likely would happen, if a fleet of air trucks were to undertake the transportation of coal?

In my judgment, the railroads of the country should be encouraged and not handicapped. Some of the present restrictions relating to their management should be removed. In other words, they should have greater control over their property through the accredited officials and representatives who are charged with their management and who are directly responsible to the stockholders for the showing made. Between the depression and the unfair competition I have noted, the railroads have all but been wrecked. They are making a mighty steep grade, and one that is not suffered by any other single public-service agency. Not only were they obliged to borrow $38,000,000 to pay interest, but they now owe the Government $360,000,000, a debt which many people think should be canceled, or a moratorium, at least, granted.

Their situation, deplorable as it is, is not greatly different than that of agriculture, industry, and business in general. One of the gravest responsibilities resting upon Congress at

this time is to cure existing evils and correct present injustices which are retarding progress, and standing in the way of economic recovery.

THE BEER BILL

Mr. COLLIER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 13742, the beer bill.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union, with Mr. BANKHEAD in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. General debate on the bill has been concluded, and the Clerk will read the bill.

The Clerk read as follows:

Be it enacted, etc., That (a) there shall be levied and collected on all beer, lager beer, ale, porter, and other similar fermented liquor, containing one-half of 1 per cent or more of alcohol by volume, and not more than 3.2 per cent of alcohol by weight, brewed or manufactured and, after the effective date of this act, sold, or removed for consumption or sale, within the United States, by whatever name such liquors may be called, in lieu of the internal-revenue tax imposed thereon by section 608 of the revenue act of 1918 (U. S. C., title 26, sec. 506), a tax of $5 for every barrel containing not more than 31 gallons, and at a like rate for any other quantity or for the fractional parts of a barrel authorized and defined by law, to be collected under the provisions of existing law. Nothing in this section shall in any manner affect the internal-revenue tax on beer, lager beer, ale, porter, or other similar fermented liquor, containing more than 3.2 per cent of alcohol by weight, or less than one-half of 1 per cent of alcohol by volume.

(b) Paragraph "First" of section 3244 of the Revised Statutes (U. S. C., title 26, sec. 202) is amended to read as follows:

"First. Brewers shall pay $1,000. Every person who manufactures fermented liquors of any name or description for sale, from malt, wholly or in part, or from any substitute therefor, shall be deemed a brewer."

Mr. O'CONNOR. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Page 1, line 7, after the word "weight," insert "which maximum percentage is hereby declared to be nonintoxicating in fact."

Mr. O'CONNOR. Mr. Chairman, I believe this is a necessary provision to be carried in the bill. It has been contained in practically all the beer bills that have been introduced in this body, to my knowledge. It was contained in the bill we voted upon last May. It is a legislative declaration which will to some extent affect the court decisions. The gentleman from Georgia [Mr. COX] and the gentleman from Texas [Mr. SUMNERS], the distinguished chairman of the Judiciary Committee, yesterday called the attention of the committee to the importance of such a phrase when, if ever, the question came before our Supreme Court.

Mr. TREADWAY. Will the gentleman yield?

Mr. O'CONNOR. I yield.

Mr. TREADWAY. If such a declaration is inserted, does the gentleman think it would have any bearing on the decision of the Supreme Court?

Mr. O'CONNOR. I do, in view of the previous decisions—I do not say it will be conclusive.

Mr. TREADWAY. Has the gentleman any citations that he can give us bearing on the subject?

Mr. O'CONNOR. There are several cases, but one of the best known is the "rent case" from New York. That case was fought all the way through the New York courts to the Supreme Court. In that case the Legislature of New York passed laws for the relief of tenants against the exorbitant demands and practices of landlords.

The Supreme Court was influenced in holding the act constitutional by the legislative declaration in the bill that an emergency existed. The court held this a finding of fact behind which the court would not go.

Mr. BRITTEN. Will the gentleman yield?

Mr. O'CONNOR. Yes.

Mr. BRITTEN. Is it not a fact that the Supreme Court takes the hearings before the committees of Congress to determine what the intent of Congress was?

Mr. O'CONNOR. I do not know that the court considers hearings. They do consult reports, but ordinarily not the debates.

Mr. CULLEN. Mr. Chairman, will the gentleman yield?

Mr. O'CONNOR. Yes.

Mr. CULLEN. I do not know really what the effect of the gentleman's amendment would be, but I do know that if I had been here at the time the amendment was offered I would have raised the point of order against it, because it is out of order as an amendment to the tax law—the tax bill which is before us. If I am too late to discuss that point, very well.

Mr. O'CONNOR. Oh, I am willing to discuss the point of order if the Chair thinks there is any reason for discussing it.

The CHAIRMAN. The point of order was waived by not being interposed at the proper time. The question is on the adoption of the amendment offered by the gentleman from New York.

Mr. O'CONNOR. Mr. Chairman, I have not yet exhausted my time. I do not believe there are many men here who are more friendly to this bill than I am, and in view of some statements made yesterday that amendments should not be offered I take this occasion to state that I believe the fair way to consider this bill is to leave it open to amendments. In view of the unfortunate experience we had on the opening day of this session in trying to pass a resolution to repeal the eighteenth amendment under suspension of the rules, with only 40 minutes of debate, I think we should approach this bill in the most liberal manner. If an attempt had been made before the Committee on Rules to bring in any kind of a rule to restrict debate or amendments on this bill, I would have voted against it. We can not afford to close the door or not to grant a day in court to the Members of the House opposed to the bill, representing the views of the opponents of the measure in the country. They should have every opportunity to express their wishes and desires and views on this bill. I for one am not going to close the door to any dry or opponent of this bill, and I think that blanket opposition to any kind of an amendment, however meritorious or helpful or perfecting, should cease. Let us proceed and consider the bill and perfect it if possible, or change it in any way the House desires.

Mr. BLANTON. Mr. Chairman, I rise in opposition to the amendment. Six distinguished members of the Ways and Means Committee have declared over their signatures in their minority views against this bill that the beer authorized by it is intoxicating. The evidence of the great expert, Dr. Walter Miles, of Yale University, proves that it is intoxicating. Down deep in our hearts we all know that it is intoxicating. For us to make a legislative declaration in this bill that such beer is not intoxicating would be a false declaration, wholly unwarranted and extremely ridiculous.

Running true to form yesterday, the gentleman from Michigan [Mr. CLANCY] applied the term "usual hypocrisy" to speeches of Members opposing this beer bill. Webster defines "hypocrisy" to be "simulation," or "the practice of feigning to be what one is not." Thus, I remembered that when this gentleman first came here he came as a Democrat. Was he merely pretending to be a Democrat? He sat on our Democratic side of the aisle. Was he simulating? Then when he could no longer come here as a Democrat he, by some sleight-of-hand performance, became a Republican when next he came back. Was he pretending? And then we found him sitting on the Republican side of the aisle. Was he simulating being a Republican? And now that he no longer can come here as a Republican, just where will we find him next?

He greatly amused me with his speech yesterday. At 6.30 o'clock at the end of a 6-hour debate, when there were few Members left on the floor, there remained seven minutes, of which four and one-half minutes were to be allotted by Mr. CHINDBLOM, when the following occurred:

Mr. CHINDBLOM. Mr. Chairman, I believe I have four and one-half minutes remaining. I yield the balance of the time to the gentleman from Michigan [Mr. CLANCY].

Mr. CLANCY. Mr. Chairman, it is a great honor to close the general debate for the wet Republicans of the House on this historical measure. For many years I have fought for legal beer and have taken and given many heavy blows in the cause.

He would have Detroiters believe that he had been specially selected and designated by the wet Republicans of the House to close the debate for them. Was he feigning to be something that he was not? He was not closing any debate for the wets of the House. He just happened to be the last one who was able to get some time. And he got the four and one-half minutes that happened to be left. He assumed unto himself "great honor," and he did his own conferring, because the other debaters had not used up the four and one-half minutes he finally got.

But the feigning most amusing of all was when the gentleman assumed that the recent great Democratic victory was merely an indorsement of his record, for with headlines and all, when extending his remarks, the gentleman from Michigan [Mr. CLANCY] printed the following as a part of his speech:

MY RECORD INDORSED

For at least nine years I have had my beer bills pending before Congress and have fought hard for a longer period of years to arouse the country to the support of these and similar bills, including my bill to repeal the eighteenth amendment. Therefore it is with great personal satisfaction that I greet the wet victory of November 8 last and the sled-length indorsement which the American people gave my arguments, even though it was a tardy and long-deferred acknowledgment. That victory is a sweet and healing ointment to many wounds which I received in the long-drawn-out war against nation-wide bone-dry prohibition.

Nor do I shed any tears over the fact that I became a casualty in the very hour of the overwhelming victory for which I fought and which victory I helped win in my city, my State, and my country. He who lives by battle must accept cheerfully the fortunes of war.

It ill becomes the gentleman to attribute "hypocrisy" to earnest Members here who for a consistent lifetime have devoted their lives to a fight against the open saloon and all of its attendant evils.

Are we to ignore the Constitution? When each Member here took the oath of office, he said that he would uphold it himself, he did not leave it to the Supreme Court. It would be the quintescence of hypocrisy to pass this amendment of my friend from New York and declare something nonintoxicating that is in fact intoxicating.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. COCHRAN of Missouri rose.

The CHAIRMAN. All debate under the rules on the pending amendment is exhausted. For what purpose does the gentleman from Missouri rise?

Mr. COCHRAN of Missouri. I rise to support the amendment.

The CHAIRMAN. Debate has been exhausted on the amendment.

Mr. COCHRAN of Missouri. I move to strike out the last word.

The CHAIRMAN. The gentleman is recognized for five minutes.

Mr. COCHRAN of Missouri. Mr. Chairman, I dislike to put the gentleman from Texas [Mr. BLANTON] on the spot, but nevertheless, in view of the fact that there were circulated during the campaign statements in reference to the action of his congressional district committee, and the purpose in circulating the action was to make it public, I feel I should state that there came to my office a letter with a Texas postmark on it, containing a copy of a resolution adopted by the Democratic congressional convention of the seventeenth congressional district of Texas. The seventeenth district is Mr. BLANTON'S district. It is a very long resolution and I shall read only the first two paragraphs.

First, we reaffirm our faith in and our allegiance to the Democratic Party and its established principles, and pledge our loyal support to our national nominees, Roosevelt and Garner.

Of course, all know the nominees Roosevelt and Garner were running on a wet platform providing for both repeal of the eighteenth amendment and modification of the Volstead law.

The second paragraph:

We are unalterably opposed to a return of the saloon in any form, but recognizing the inherent right of the people to rule on all issues, we urge Congress, by an appropriate resolution, to submit to the people for their determination by their vote in a special election, the question of whether they approve the eighteenth amendment or want it modified or desire an outright repeal.

Mr. Chairman, the gentleman from Texas [Mr. BLANTON] ran upon that platform, and it seems to me that he is not representing the people who sent him to Washington when he stands here and opposes every effort to do what the people of his district said they wanted done, by the fact that they sent him back to Congress. They undoubtedly wanted him to carry out this platform.

Mr. BLANTON. Will the gentleman yield?

Mr. COCHRAN of Missouri. I gladly yield to the gentleman.

Mr. BLANTON. That was a resolution passed by a convention that nominated me after I ran in the primary election and had been elected.

Mr. COCHRAN of Missouri. Oh, no; the gentleman was not elected until the November election. A primary is not an election and a candidate is not elected until after the election, even though he has no opposition.

Mr. BLANTON. I was elected in the primary, for that means election in my State. [Laughter and applause.]

Mr. COCHRAN of Missouri. I do not agree with the gentleman. His people will hold he ran on that platform. The balance of the platform strongly approved Mr. BLANTON'S service, and in conclusion it pledged Mr. BLANTON their support. I am sure he did not repudiate the balance of the platform, which so highly praised his activities in Congress.

Mr. BECK. Mr. Chairman, I move to strike out the last two words.

The CHAIRMAN. That amendment is not in order.

Mr. STAFFORD. Mr. Chairman, I ask unanimous consent that the gentleman from Pennsylvania [Mr. BECK] may proceed for 10 minutes.

Mr. BECK. I move to strike out the last preceding word.

Mr. MAPES. Mr. Chairman, I have a bona fide amendment I would like to present.

The CHAIRMAN. The Chair will recognize the gentleman from Michigan, if he has a bona fide amendment, and will recognize the gentleman from Pennsylvania [Mr. BECK] later.

Mr. STAFFORD. I take it, then, Mr. Chairman, that the pro forma amendment has, by unanimous consent, been withdrawn?

The CHAIRMAN. The Chair so understands.

The Clerk will report the amendment offered by the gentleman from Michigan.

The Clerk read as follows:

Amendment offered by Mr. MAPES: Add at the end of the O'Connor amendment the following: "which is further declared to have the same ingredients as milk."

[Laughter.]

Mr. McCORMACK. Mr. Chairman, a point of order. I make the point of order that the amendment is not germane to the section.

The CHAIRMAN. The Chair overrules the point of order. [Laughter.]

Mr. MAPES. Mr. Chairman, I have read the hearings before the Committee on Ways and Means with reference to this question of the intoxication of 4 per cent beer, and I listened to the argument here yesterday about beer having the same ingredients as milk, and I have heard the question argued at other times, and I imagine that the average mind follows the statements and the arguments that 4 per cent beer is not intoxicating about as well as it follows the argument that beer contains the same ingredients as milk.

After hearing and studying the arguments on both questions, it seems to me that there is about as much logic and about as much sense in putting into this legislation a declaration that beer contains the same ingredients as milk as there is in adopting the O'Connor amendment which declares that 4 per cent beer is not intoxicating. I am therefore

offering the amendment which I have to follow the amendment offered by the gentleman from New York.

Mr. BECK. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Michigan.

I think our always earnest and generally eloquent friend from Texas [Mr. BLANTON] has raised a question which does concern the House and should have its most careful consideration.

The gentleman alludes to the fact that two minority reports have been filed, one by three distinguished members of the majority party and the other by three equally distinguished members of the minority party, that not only question the constitutional powers of the House to pass this legislation but add to it the further grave charge that any Member who votes for this bill violates his oath of office to support and maintain the Constitution of the United States. It seems to me that, as this debate will excite a great deal of attention in the country—and deservedly so—it is a pity there has yet been no extended argument either for or against the constitutionality of the proposed legislation. I do not think that this important bill should go out to the country until the pros and cons of what I concede is a debatable question—viz, its constitutionality—has been fully discussed. I believe it is constitutional, but for reasons wholly different from those suggested by the amendment offered by the gentleman from New York [Mr. O'CONNOR]. Yesterday I tried to get time to explain the reasons why I think the law is constitutional, but unfortunately for me, and very fortunately for the House, the time had been allotted to other Members, who discussed the merits of the bill, with only incidental reference to the question of constitutionality. I do not think we can afford to pass without adequate discussion the respectful but grave challenge of these two minority reports, and I am heartily glad the gentleman from Texas [Mr. BLANTON] again referred to them.

I am only rising to say that if we make some progress with these amendments, so as to gratify the natural desire of the House that the work of amending the bill shall be ended this afternoon, I may so far encourage myself as to hope that by unanimous consent the time limit be extended by one hour, so that there may be two speeches, one in favor of the constitutionality of the law and the other against its constitutionality, each to be limited to 30 minutes and to be restricted to that subject. I believe that would excite a great deal of attention in the country and do much to educate public opinion as to whether we are or are not violating an amendment to the Constitution, which is just as much a part of it as any other part; but I know if I were to ask unanimous consent for 30 minutes to express my views at this time, about which a number of Members have done me the great compliment to ask, it would run counter to the present disposition of the House to get through the work of amending the bill.

Mr. SCHAFER. Will the gentleman yield?

Mr. BECK. I yield to the gentleman from Wisconsin.

Mr. SCHAFER. Mr. Chairman, I ask unanimous consent that the gentleman from Pennsylvania [Mr. BECK] be permitted to address the House for 30 minutes on the constitutionality of the pending bill.

Mr. BLANTON. Before that request is put I want to ask the gentleman from Pennsylvania a question.

Mr. BECK. I yield to the gentleman.

Mr. BLANTON. Is it not a fact that the Ways and Means Committee held hearings on this question for a long time, and their printed hearings are an inch thick, and that the gentleman from Pennsylvania, who is the Republican leader of the wets, had ample time to go before that committee, and also out of the six hours' general debate, if the gentleman had requested it, surely he would have been given, as the leader of the wets, 30 minutes for his speech?

Mr. BECK. In answer to the gentleman from Texas, I am not the leader of the Republican wets, but only chairman of the Republican wet group. At all events that hardly seems pertinent.

Mr. BLANTON. Mr. Chairman, for the present I object to the request. It would constitute a very unfair division of the time for debate, as the six hours have already been consumed, three in favor of the measure and three against it.

Mr. STAFFORD. Mr. Chairman, would the gentleman from Texas be willing to grant the gentleman from Pennsylvania 15 minutes?

Mr. Chairman, I ask unanimous consent that the gentleman from Pennsylvania may proceed for 15 minutes.

Mr. CELLER. Mr. Chairman, reserving the right to object, and I shall not object, I believe the Members of the Judiciary Committee of the House should have had this bill in the first instance. They should have an opportunity also to express their views on the constitutionality of this bill.

Mr. UNDERHILL. If that is the case I am going to object.

Mr. SIROVICH. Mr. Chairman, I move to strike out the last word.

Mr. STAFFORD. Mr. Chairman, I make the point of order the motion is not in order.

Mr. SIROVICH. Mr. Chairman, I move to strike out the last three words.

Mr. DYER. Mr. Chairman, I demand the regular order.

The CHAIRMAN. The point of order is well taken at this juncture. The parliamentary situation is that the gentleman from New York has offered an amendment; the gentleman from Michigan has offered an amendment; and the amendment proposed by the gentleman from New York [Mr. SIROVICH] would be an amendment in the third degree.

Mr. SIROVICH. Mr. Chairman, I move to strike out the enacting clause.

Mr. Chairman, ladies and gentlemen of the committee, just as I entered the forum I heard the distinguished gentleman from Michigan [Mr. MAPES] discussing the speech that I made on the floor of the House yesterday afternoon. The fundamental object of my address from a scientific standpoint was to prove that all food that the human being consumes must contain six ingredients—proteids, fats, carbohydrates, minerals, vitamins, and water. Without these chemical constituencies in food a human being would live but a short time. The great difference from the scientific chemical standpoint between the chemistry of milk and that of beer is that beer contains 3.2 per cent alcohol by weight while milk contains no alcohol. On the other hand, milk contains 3½ per cent fat while beer contains no fat. Otherwise there are great similarities in the composition of both milk and beer, especially so far as the minerals are concerned.

Mr. Chairman, ladies and gentlemen, I have always entertained a very high regard and great admiration for the distinguished character of the gentleman from Michigan [Mr. MAPES].

Mr. BULWINKLE. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. BULWINKLE. The point of order is that the gentleman from New York is not speaking upon his amendment to strike out the enacting clause. I want to serve notice that if Members do not confine themselves to their motions I shall object, because otherwise we will be here indefinitely.

Mr. SIROVICH. Mr. Chairman, I am trying to lay the foundation for my thought.

The CHAIRMAN. Ordinarily the point of order would be well taken, but inasmuch as the gentleman has moved to strike out the enacting clause, which covers the whole range of the subject matter under discussion, the Chair overrules the point of order.

Mr. SIROVICH. Mr. Chairman, ladies and gentlemen of the committee, every doctor in the United States will tell you that millions of children have died upon the altar of contaminated milk that has been polluted and vitiated with hundreds of millions of bacteria. This milk fed to innocent babies has been responsible for such diseases as enteritis, which is an inflammation of the intestines, typhoid fever, and dysentery, and from other intestinal diseases, due to the drinking of milk that has been contaminated through unclean handling either in the dairies or in other places where it has been transported.

Alcohol is an antiseptic. When ingested in the stomach in a percentage of 3.2 per cent by weight it is not absorbed in the stomach, but three or four hours later it is absorbed and assimilated from the intestines and is distributed through the portal circulation into the liver, from thence into the heart, and from there throughout every cell and tissue of the body.

This alcoholic content is nonintoxicating and acts as an antiseptic to the mouth, to the throat, to the stomach, and to the intestines, and helps to destroy bacteria that may be present in the food or beer.

As a student of medicine I believe the weight of scientific evidence is with me that 3.2 per cent alcohol is a nonintoxicating beverage. No experienced physician will testify that this alcoholic content can produce alcoholic gastritis, kidney disease, cirrhosis of the liver, or any form of arterial or heart disease. Strong alcoholic liquor, such as gin, whisky, rum, cognac, and brandy containing 48 to 54 per cent alcohol, can cause these diseases if taken in large quantities and for a long period of time.

Mr. MAPES. Mr. Chairman, will the gentleman yield?

Mr. SIROVICH. I yield.

Mr. MAPES. Will the gentleman discuss, from a scientific standpoint, the difference between 4 per cent beer and intoxicating beer?

Mr. SIROVICH. The great difference between 4 per cent beer by weight and 3.2 per cent beer by weight is the difference between tweedledee and tweedledum. It depends on the personal equation of every individual who consumes a bottle of beer. An individual drinking 18 bottles of beer containing 3 per cent alcohol by weight would be consuming as much alcohol in all these bottles as could be found in a glass of whisky containing 54 per cent alcohol. Strong drink is quickly absorbed in the stomach and is immediately burned in the tissues and cells of the body, leaving no refuse behind. Strong drink in the form of cocktails and stimulants are usually taken before meals on an empty stomach and are thus quickly absorbed. Beer, on the other hand, is usually taken between meals or after meals with food mixed with it, and it is therefore not absorbed in the stomach but passes on from the stomach into the intestines where four or six hours later it is absorbed into the system. Therefore its strong dilution prevents it from being intoxicating in nature as well as in fact.

Mr. BLANTON. Mr. Chairman, will my distinguished friend and scientist from New York yield for a second?

Mr. SIROVICH. I yield to my good friend from Texas, but should like at this moment to resent his statement in referring to some of the material that I brought here yesterday to demonstrate my contention as poppy-cock. Were I to use his formula, I would be inclined to say that some of the sentiments that he has expressed on the floor of the House stand as a symbol of poppy-cock.

Mr. BLANTON. Then my friend from New York admits that he can improve on God Almighty's formula for milk?

Mr. SIROVICH. Yes; I can. [Laughter.] I would have included some antiseptic in milk that would have destroyed the bacteria that is found within it without impairing its quality. Let me tell my distinguished friend from Texas that, in my humble opinion, milk was made for babies and beer for adults.

Mr. SCHAFER. Mr. Chairman, will the gentleman yield?

Mr. SIROVICH. Yes; I yield to my friend from Wisconsin.

Mr. SCHAFER. The gentleman from Texas does not approve of God Almighty's formula for fermented fruit juice.

Mr. HOCH. Will the gentleman yield?

Mr. SIROVICH. I yield.

Mr. HOCH. Will the gentleman explain from a scientific standpoint just why milk seems to be lacking in the "Sweet Adeline" qualities? [Laughter.]

Mr. SIROVICH. "Sweet Adeline" qualities are not found in milk. When we legalize beer, as we will this afternoon, the people of the United States, throughout the length and breadth of our country, will rejoice in the "Sweet Adeline" qualities of healthy, nutritious, nonintoxicating, palatable beer, which will bring them joy and happiness for the future instead of consuming the poisonous racketeering beer which has brought to our people and to our Republic nothing but shame and dishonor and disgrace and given revenue to criminals, hi-jackers, and racketeers of our country. [Applause.]

Mr. Chairman, I ask unanimous consent to withdraw my motion to strike out the enacting clause.

Mr. BULWINKLE, Mr. DYER, and Mr. MOUSER objected.

The CHAIRMAN. The question is, Shall the committee now rise and report the bill back to the House with the recommendation that the enacting clause be stricken?

Mr. SABATH. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SABATH. The gentleman from New York has made a motion and, if I am not mistaken, there was no one recognized in opposition to his motion. I was under the impression that his request to withdraw the motion would be granted; but not having been granted, I think some one is entitled to recognition in opposition to the motion.

The CHAIRMAN. Does the gentleman desire recognition in opposition?

Mr. SABATH. I do.

The CHAIRMAN. The gentleman from Illinois is recognized for five minutes in opposition to the motion.

Mr. SABATH. Mr. Chairman, we all recognize the fact that when the gentleman from New York [Mr. SIROVICH] made the motion to strike out the enacting clause, it was only for the purpose of securing recognition, so that he would be able to answer the humorous amendment of the gentleman from Michigan [Mr. MAPES].

The gentleman from New York, the same as any other well-informed and sincere man, is in favor of this bill and pending legislation and has made a highly interesting and intelligent argument in favor of it.

The slender Democratic majority of this House is endeavoring, in good faith, to carry out the pledge and promise given in the Democratic platform; but I feel that all of our efforts are in vain and that no matter how we modify the provisions of this bill the Anti-Saloon League forces and the professional prohibitionists will not permit President Hoover to sign it. Therefore, I believe that our arguments and speeches to-day, as well as those pro and con during the six hours of debate yesterday, have been wasted. To my mind, all of the speeches yesterday against this bill contained the same worn-out arguments and platitudes that I have heard on this floor for the last 20 years.

It is to be regretted that we have a large number of sincere, well-intentioned gentlemen who are, unfortunately, still misled by the long-disproved arguments of the prohibition leaders. The majority of them, as usual, when the facts are against them, hide behind the Constitution, though not a single one of them is courageous enough to state that Congress does not possess the power to declare that 3 per cent beer is not intoxicating in fact. These very forces did not hesitate to violate the Constitution when they advocated the eighteenth amendment in direct opposition to the Constitution.

Though I have as wholesome a respect for the Constitution and for my oath of office as some of these gentlemen, I do not fear, or is there any danger, judging the future by the past, that the Supreme Court might declare this unconstitutional as some gentlemen, in their desire to defeat it, tried to make us believe. The facts are that the Supreme Court in the cases of Ruppert against Caffey and Rhode Island against Palmer held that Congress has the right to designate what constitutes an intoxicating beverage. Moreover, the Attorney General of the United States contended in these cases that 2.75 per cent beer is not intoxicating. Therefore, I advise these gentlemen and these constitutional lawyers, who are fearful of violating their oath of office by voting for this bill, to read the opinions in these two cases.

I feel, therefore, that this legislation conforms with the promulgated decrees of our highest court. It will eliminate the spirit of rebellious opposition and contempt which has vitiated the present system. It will remove the prohibition problem from politics and place it within the automatic con-

trol of natural economics. It will permit the resumption of normal educational activities along temperance lines. It is practical, producing the cost of its enforcement and returning a net surplus to the Government. Above all, it is a solution offering a reasonable certainty of eliminating the profits which to-day permit and support the underworld traffic that is steadily rotting the foundations of our civilization. Taxation is offered as a workable solution to the liquor problem in America.

I feel that the conditions with which the country and the Treasury are confronted and the pledges which we have given demand that we do not delay this legislation. I feel that this legislation, which would provide a wholesome, nourishing beverage at a low cost, create employment, and secure needed revenue for the Government, should not be delayed.

Other gentlemen, on the pretext of protecting the home and the womanhood of the Nation, and because of a fear of the drunkenness it may cause, are opposing the passage of the bill. Let me say to these gentlemen that the enactment of this bill will undo rather than augment the prevailing abuses, which, we all admit, are many.

I should like to have these gentlemen read the Wickersham report and especially the statement made by that outstanding, independent, and former prohibition gentleman of Virginia, a member of this commission, the Hon. Henry W. Anderson:

> Unless a solution of this [prohibition] problem is found, and soon, public peace and public welfare of the country are in imminent danger, and the present state of social and economic unrest may lead to results that even the most pessimistic do not now dream.

I concede that the adoption of this bill will not cure all of our ills or balance the Budget; yet, I firmly believe that it will reduce the use of hard liquor, minimize bootlegging, reduce discontent, give employment to thousands, and absorb or utilize, as has been stated by many, more than 75,000,000 bushels of barley and other farm products.

Due to the unwise prohibition legislation the country has lost billions of dollars in revenue. Of course, the revenue from this legislation will not be as great as some claim. Why? Because of conditions. But it will indirectly and materially raise revenue for the Government. You know that since 1929 the income of the Government has fallen off over $7,000,000,000, owing to the crash and the crisis. It does not matter, therefore, how we economize; we can not make both ends meet if the income continues to fall. We must aid the business of our country and put it on a profitable basis, for only then will revenue increase. The passage of this bill will be an incentive to all allied industries and it will aid agriculture.

If the opponents of this legislation would only read the evidence given before the Judiciary Committee of the House and the Finance Committee of the Senate on my resolution in the Seventy-first Congress, and if, as I said, they would only read the report of the $500,000 Wickersham Commission, I feel they could not continue to advance arguments that have been disproved.

As chairman of the Liquor Traffic Committee from 1910 to 1914, I have of necessity been compelled to devote a considerable portion of my time to the study of prohibition. The results of this study, which covered an examination and an analysis of the experiences of other countries as well as our own States where prohibition was tried, have confirmed my belief that no country or group of people has ever attained or can attain temperance by sumptuary legislation. And these results explain my unalterable opposition to the adoption of the eighteenth amendment and the Volstead Act and they explain my unceasing struggle to repeal this legislation.

Unfortunately for the country, the eighteenth amendment and the harsh Volstead Act were passed. But within a short time the ill effects, which I prophesied would follow the attempts to enforce it, began to plague not only those who were instrumental in passing the law but those who had honestly and sincerely opposed it. The shamefulness of it all was not perhaps so much that the rights of the majority were abrogated but that the questionable methods used to pass and enforce it were not only admitted but boasted of by the imposing array of generalissimos of the prohibition forces—Wheeler, "Pussyfoot" Johnson, Reverend Dinwiddie, McBride, and Clarence True Wilson.

But though the Nation as a whole has been slow to awaken to the crime, corruption, and dishonesty that have sprung from this ill-advised legislation, it has at last seen the light. Some of our most patriotic, intelligent, and liberty-loving educators, like Nicholas Murray Butler, of Columbia; John Hibben, of Princeton; and Ernest Martin Hopkins, of Dartmouth, have scored prohibition by pointing out the abuses that are springing forth from this ill-advised, yes, vicious legislation and the methods pursued by the prohibition oligarchy.

The return of over 4,000,000 men from overseas and from the camps to private life augmented our small forces and increased the opposition to this law, not only in regard to the principles but to the course of action pursued by the prohibitionists in control. This aid, of course, was gratifying, for it confirmed my belief that the views of the service men were disregarded in the passage of the measure.

As disrespect for the law grew and violations and crime began to increase, I made strenuous efforts to amend the Volstead Act so as to permit the sale and manufacture of beverages with a low alcoholic content, such as beer and light wines. Immediately thereafter my efforts were branded as being attempts at nullification, and the small group of us that fought courageously were called "nullifiers." But realizing that we were right and that we were pursuing a course in consonance with that outlined in the Constitution we continued with our efforts to repeal or at least modify this crime breeding law.

In the Seventieth Congress, that is, in 1927, I introduced House Resolution 99 to amend the eighteenth amendment.

In the Seventy-first Congress I reintroduced, with some minor amendments, the same resolution and secured hearings on it before the Judiciary Committee of the House. Witnesses from every section of the country, men and women from all walks of life—ministers, preachers, professors, doctors, teachers, lawyers, farmers, and business men—appeared, favoring this resolution.

During the height of these hearings the Literary Digest made its first poll, and I feel that the evidence submitted then brought about the appointment of the so-called Wickersham Commission. It was and is my belief that with the completion of the hearings on this resolution there was no need for the Wickersham Commission to make investigations, because the evidence brought before the commission was so exhaustive, so well presented, and so well expressive of American life that anything beyond that was useless and wasteful repetition. I feel confident that this evidence caused the awakening of the American people to the need for the immediate repeal of the eighteenth amendment or the modification or liberalization of the harsh prohibition monstrosity, which is responsible for the wave of crime, corruption, and racketeering and for the debauchery of our judiciary, which has filled our penal institutions and increased our taxes, and which, above all, has brought about a disrespect not only for the prohibition law but for all laws.

Naturally I was very much gratified when the majority of the members of the Wickersham Commission concluded and recommended that—

> * * * It has been demonstrated that prohibition under the eighteenth amendment is unenforceable and that the amendment should be immediately revised. * * *

But notwithstanding the recommendations and the subsequent demands on the part of members of this commission for action, President Hoover has failed, up to this day, to act and recommend to Congress legislation in conformity with the recommendations of the carefully selected commission.

Last June both parties held conventions—the Republican Party straddling the prohibition issue; the Democratic Party going on record for a straightforward, out-and-out prohibition modification and repeal. Since then the election has taken place and the result clearly demonstrates that there is no question where the American people stand. They have, by a majority of over six million, approved of the Democratic candidate, that outstanding American, Governor Roosevelt, who manfully and in no uncertain terms states that he is for the immediate modification of the Volstead Act. The country has also elected on that platform 313 Democratic Members of Congress, giving the party the largest majority in its history.

I have the utmost confidence that if President Hoover's persistent opposition to remedy conditions shall prevail, through his veto power, the newly elected Members, under the leadership of the new, progressive Democratic President, who believes that the will of the people shall prevail, will pass not only this sane, helpful, and beneficial legislation, but also submit to the American people the repeal of the eighteenth amendment within a short time.

In conclusion let me say that during the last few days I have received statements from the Federal Grand Jury Association of New York, the Labor National Committee, and many other outstanding organizations asking for early action on this matter. I regret that I do not have time to read these statements or embody them in the RECORD, but I advise the opponents of this legislation to read the reasons and arguments advanced in these memorials. However, I feel it is incumbent upon me to call your attention to this brief but strong statement—a statement that should have received long before this the serious consideration to which it is entitled—made by Dr. Stephen Leacock, professor of economics, McGill University, Montreal, Canada:

> * * * It is my candid belief that the adoption of prohibition in the United States is the worst disaster that has fallen upon the Republic since its organization. If it could last, it would undermine the foundations of government itself. If it could last, it would in time bring down the strongest political fabric into anarchy and dissolution. * * *

The CHAIRMAN. The question is on the motion of the gentleman from New York [Mr. SIROVICH] to strike out the enacting clause.

The question was taken; and on a division (demanded by Mr. PARKS) there were—ayes 108, noes 132.

Mr. BLANTON. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chair appointed as tellers Mr. SIROVICH and Mr. HAWLEY.

The committee again divided; and the tellers reported that there were 118 ayes and 163 noes.

So the motion to strike out the enacting clause was rejected.

Mr. BECK. Mr. Chairman, I ask unanimous consent to proceed for half a minute to make an explanation.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. BECK. Gentlemen of the committee, I was under the impression when the viva voce vote was taken that we were voting on the amendment presented by the gentleman from New York [Mr. O'CONNOR]. Therefore I inadvertently voted "aye" on the motion of his colleague [Mr. SIROVICH]. There was no such conversion on my part as happened to Paul on his way to Damascus, and therefore on the vote by tellers I voted "no." [Applause.]

The CHAIRMAN. The question now recurs on the amendment offered by the gentleman from Michigan [Mr. MAPES] to the amendment of the gentleman from New York [Mr. O'CONNOR].

The question was taken, and the amendment to the amendment was rejected.

The CHAIRMAN. The question recurs on the amendment of the gentleman from New York [Mr. O'CONNOR].

The question was taken, and the amendment was rejected.

Mr. LAGUARDIA. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

> Page 1, line 4, after the word "porter," strike out the words "and other similar" and insert in lieu thereof "similar and other."

Mr. COLLIER. Mr. Chairman, I make a point of order against the amendment that it is not germane and opens it up to the sale of wine and everything else.

Mr. LAGUARDIA. Mr. Chairman, I would like to be heard on the point of order.

The CHAIRMAN. The Chair will hear the gentleman.

Mr. LAGUARDIA. Mr. Chairman, the purpose of my amendment is not to perfect the language but to broaden the language of the section. The bill before us is a revenue bill and provides for levying a tax on beer, lager, ale, porter, and other similar fermented liquors. My amendment provides for similar and other liquors. In other words, it would embrace other fermented beverages of the same alcoholic content. That is the purpose of my amendment. It is germane to the scope, extent, and intent of the section.

Mr. Chairman, if this were a tax on just one liquor, then perhaps the point of order might be properly raised, but here we have no less than 1, 2, 3, and 4 specified names—different varieties of fermented liquor—and besides a whole class of "other similar fermented liquors."

If the Chair will recall, when the revenue bill was before the House—and I think the gentleman from Alabama was in the Chair—an amendment was offered placing a tax on oil. The point of order was raised on the amendment placing a tax on oil, and it was sustained by reason of the fact that the schedule under consideration at the time provided for various articles embraced in the sales tax of the revenue bill.

A casual examination of the bill will disclose that it is a tax on five or more different varieties of liquor, and therefore my amendment is in order—in keeping with a long line of rulings and precedents and sanctioned by many years of use and acceptance.

The language I use is identically the same that is now in the bill, namely, a tax on "other similar liquors," and surely the amendment providing "for similar and other fermented liquors" is germane to the proposition under consideration.

I do not intend to move to raise the alcoholic content. I simply apply the tax to other fermented liquors. I submit that, under the rulings on tax and revenue bills, my amendment is proper and germane.

Mr. CELLER. Mr. Chairman, may I be heard on the point of order?

The CHAIRMAN. The Chair is prepared to rule, but the Chair will hear the gentleman. [Cries of "Rule!" "Rule!"]

The gentleman from New York [Mr. LAGUARDIA] offers the following amendment:

> Page 1, line 4, after the word "porter," strike out "and other similar" and insert in lieu thereof "and similar and other."

It is candidly admitted by the proponent of the amendment that the purpose he has in mind is to broaden the construction of the classes of beverages that may be dealt with in this bill. Basing his rulings on a long line of precedents, one of which the Chair will briefly quote, the Chair thinks he is justified in saying that he may judicially recognize the fact that there are at least three different general classes of alcoholic beverages—malt beverages, spiritous beverages, and vinous beverages. The bill under consideration attempts to deal with only one class of such alcoholic liquors, to wit, the class including ale, porter, and beer. Scientifically, and from a technical, legal discrimination, the Chair thinks that a class not mentioned in this cannot be included under the guise of an amendment.

The Chair quotes a ruling made by Mr. Speaker Gillett on this general parliamentary proposition:

> To a bill for relief of dependents of men in the Regular Army, an amendment proposing to extend the benefits of the act to dependents of men in the National Guard and Reserve Corps was held not to be germane.

This and other precedents which might be cited are based on the distinction the Chair has attempted to disclose, to the effect that it is not permissible as a germane amendment to offer a proposition changing entirely the class of articles dealt with in the text of the original bill. On that principle, the Chair sustains the point of order.

Mr. PALMISANO. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. PALMISANO: Page 2, line 2, after the word "of," strike out "$5" and insert in lieu thereof "$3."

Mr. PALMISANO. When I went before the committee the other day I opposed the $5 tax because I said that under it beer could not be sold for 5 cents a glass, that the wholesale price would be in the neighborhood of $12 a barrel, and for all practical purposes there would be only 30 gallons of beer in a barrel of 31-gallon capacity, because there would be 1 gallon of waste; and in what I said at that time the committee and the brewers acquiesced. Their contention is that an 8-ounce glass of beer may be sold for 5 cents. There has never been a tax of more than $1 a barrel since 1863, except during emergencies—during the Civil War, the Spanish-American War, and the late war. Why do we have to raise the tax to $5, five times the normal tax which has been in existence for over 70 years? So I say, Mr. Chairman, that my amendment would multiply the normal tax of $1 by three, and in that way, figuring the revenue in 1914 when it was a dollar a barrel, we would eventually receive in revenue $201,000,000 and permit the workingman to obtain a glass of beer, and in that way more beer would be consumed. If you are going to sell it in a whisky glass, and that is what this 8 ounces means—and my friend, Mr. O'CONNOR, is going to offer another amendment, I understand, making the tax seven dollars and a half a barrel—then, so far as I am concerned and so far as the people I represent are concerned, while we want beer, you are placing it beyond our reach. I trust that the amendment will be adopted so that beer, in the event that this bill passes, may be put within the reach of workingmen.

Mr. TREADWAY. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Maryland [Mr. PALMISANO]. The testimony before the Committee on Ways and Means, which has to deal with revenue matters, and not with the price at which a glass of beer is to be retailed, was to the effect that with a $5 per barrel tax the greatest amount of revenue would be obtained for the Government. Further than that, the advocates of that tax rate said it would not interfere with the sale of beer at 5 cents a glass. Therefore, it seems to me that we ought, in one instance, at least, to consider the revenue feature of this bill. I expect to vote for the bill, but in doing so I first want to express my disapprobation of the manner in which it is before us. There was no occasion, in my judgment, to refer this bill, having as its main purpose the legalizing of beer, to the Ways and Means Committee, which should have to deal solely with matters of revenue. The volume of testimony which we received relative to revenue was almost infinitesimal. It related almost entirely to beer or no beer, one or the other. Except the Secretary of the Treasury, the people who appeared before our committee were not testifying for revenue for the Government. At the opening of the hearings I asked if other measures than this were to be brought before our committee for revenue purposes, and I was informed by the chairman of the committee that so far as any other revenue measure was concerned he had none in mind at this time.

I stand here, Mr. Chairman, advocating the balancing of the Budget at this session of Congress, and certainly we can not do it solely by passing a beer bill. It will not come within one-third or one-quarter of raising the revenue necessary to balance the Budget. Therefore I say the Democratic majority should have considered not solely a beer bill but a revenue bill, based, in my opinion, on the bill that we reported last session, namely, the manufacturers' excise tax bill. If that bill were before Congress to-day, I prophesy it would pass by a large majority. Many Members who voted against it at the last session realize it is the one and only means by which we can balance the Budget. It ought to be before us here to-day rather than the so-called beer bill in which the matter of revenue is only incidental in the minds of its proponents.

In this connection I desire to invite attention to the following extracts from the statement which I submitted in connection with the report of the Ways and Means Committee on the bill under consideration:

The Ways and Means Committee is the revenue-raising committee of the House. It has jurisdiction of "such measures as purport to raise revenue and of the bonded debt of the United States." Obviously, the reference of the beer bill to the Ways and Means Committee was a subterfuge to secure a favorable report from some committee, as it had previously been demonstrated that such a report could not be obtained from the Judiciary Committee which has jurisdiction over prohibition measures.

Personally, I recognize that real beer, say, of 3.2 per cent of alcohol by weight, manufactured legally and under sanitary conditions, is far preferable to hootch and home-brew. For this reason I can consistently vote for the pending measure, but as a member of the Ways and Means Committee, dealing with the revenues of the country, I could not vote to report a measure in which the revenue element was secondary to the legalizing of the manufacture and sale of 3.2 per cent beer. For 16 years I have been a member of the Ways and Means Committee, and never in that time has such a substerfuge been resorted to nor has a revenue measure been taken up piecemeal.

The committee spent the greater part of the last session in an effort to secure sufficient revenue to balance the Budget. It became convinced that the best and perhaps the only method of obtaining this revenue was through a manufacturers' excise tax, and it favorably reported such a bill to the House. The House, however, did not see fit to adopt the bill and it was then necessary for the committee to draft a makeshift measure which, with various changes, became law.

Owing to unforeseen circumstances and the continued depression the 1932 revenue law has not produced the anticipated revenue. The Secretary of the Treasury in his report estimates that the revenue in the fiscal year 1934 will be $2,949,000,000, including $329,000,000 of foreign payments. The President has submitted to Congress estimates of appropriations for the fiscal year 1934 amounting to $3,256,000,000, exclusive of statutory debt retirement. Accordingly, the present estimated deficit for 1934 will be $307,000,000, and this figure will probably be increased by the failure of certain foreign obligations to be paid in full.

In view of this situation, I feel that it is the duty of the Ways and Means Committee not to confine itself to advocating a beer bill which would raise only a portion of the funds needed by the Government, but to devote its energies and attention to drafting a measure which will produce sufficient revenue so that the new administration may start with an evenly balanced slate.

The method of procedure is perfectly simple. The so-called manufacturers' excise tax which, with certain amendments, was agreed upon by the committee during the last session can be used as the basis of a measure to restore a proper balance between expenditures and receipts. The tax proposed in the bill to legalize beer, if the House so voted, could be one of the items of such a measure.

If the committee and the House will adopt such a program, we will be performing our duty, acting openly, securing the necessary revenue, and starting the new administration without financial embarrassment.

[Here the gavel fell.]

Mr. MICHENER. Mr. Chairman, I offer an amendment.

Mr. O'CONNOR. Mr. Chairman, I have an amendment at the desk.

The CHAIRMAN. There is an amendment pending, offered by the gentleman from Maryland [Mr. PALMISANO], that has not yet been disposed of.

Mr. SCHAFER. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Wisconsin is recognized.

Mr. SCHAFER. Mr. Chairman, I shall support the amendment offered by my Democratic colleague, the gentleman from Maryland [Mr. PALMISANO]. I would refer the good Republican dry member of the Ways and Means Committee [Mr. TREADWAY] to the fact that during the last session of Congress he, and practically every member of the Ways and Means Committee, brought to the floor of the House a tax on brewer's wort and malt sirups, a tax which was exorbitant, a tax which taxed by indirection what the members of that committee did not then have the intestinal stamina to tax by direction.

Your committee prophesied that that tax would bring in many millions of dollars and would help balance the Budget.

When we look at the figures as to its income, we find that the receipts from that extortionate tax were about equal to the cost of collecting it.

Now, let us not defeat the purpose of raising revenue by making the tax on this nonintoxicating beverage too high, the same as was done with reference to the brewer's wort tax. I agree with the gentleman from Maryland [Mr. PALMISANO] that the common man of this country must be given the opportunity to buy a good glass of beer for 5 cents. The gentleman from Massachusetts [Mr. TREADWAY] can talk about a glass of beer for a nickel, but the gentleman must realize there are many different capacities of glasses. Perhaps the gentleman from Massachusetts desires that the man of small means only have one of those little "snits" for a nickel, such as is received from the bootlegger to-day for 20 or 25 cents, half foam and half beer—about two or three mouthfuls of beer in a glass.

I sincerely hope that this House, in order to get revenue into the Treasury, in order to help combat the sale of high-powered untaxed beer by racketeers, in order to give the common man a chance to get a good-sized glass of stimulating, health-giving, nonintoxicating, 4 per cent beer for 5 cents, will adopt the amendment offered by that sterling Democrat, the friend of the common people, the gentleman from Maryland [Mr. PALMISANO]. [Applause.]

Mr. MOUSER. Will the gentleman yield?

Mr. SCHAFER. I yield.

Mr. MOUSER. I think the gentleman is doing a great injustice to the distinguished gentleman from Massachusetts [Mr. TREADWAY] when he says the gentleman from Massachusetts is a dry Member still. Does not the gentleman know that the gentleman from Massachusetts voted for repeal, and now he is going to vote for nonintoxicating beer?

Mr. SCHAFER. The gentleman has not voted for beer in committee. The record before the Ways and Means Committee speaks for itself.

Mr. MOUSER. But the gentleman just said he was going to support this bill.

Mr. SCHAFER. I am indeed pleased to hear that. [Applause.]

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. KUNZ. Mr. Chairman, I move to strike out the last two words.

Mr. Chairman, since the last election and the handwriting on the wall has been shown, many Members have changed their attitude on the question of beer. The President elect let the world know that if he were elected President of the United States the people of America would have beer. Now, since so many of us have been defeated, a great number are trying to rectify the error of their ways, and in order to balance the Budget they are trying to give to the people of this country beer. It puts me in mind of a blacksmith who is trying to repair a watch. Many Members talk about beer. They do not know what beer means. The people of America want beer, but the question is, What kind of beer? They do not want rice beer; they do not want corn beer. They want malt beer. Beer is the national drink of Germany. Everybody in Germany drinks beer. They drink it for breakfast. They do not drink it because it is an intoxicating liquid, but they drink it because of the nutrition that it possesses, and the people of America want beer, and they want good nutritious beer. It is not a question of the alcoholic content of that beer, but the question is how much nutrition that beer will contain. Then, in order to preserve that beer, let it contain enough alcohol, just as Doctor SIROVICH explained yesterday, when he had the bottles of beer on one side and milk on the other. Both of them may not contain the same ingredients, but the fact is that if you put alcohol into the milk, you will preserve that milk just the same as if you put alcohol into malt extract it will preserve the malt extract. If it is not preserved, as a consequence it will sour. Many Members do not realize the situation in the great cities.

I speak of Chicago now, where the police have received $5 a barrel from the bootlegger that he may peddle the beer in the different districts and at the different saloons. The man there pays 25 cents for a glass of beer and there was no objection made to it. He was buying what? Needle beer. Now, what we want to do is to give to the people of this country a nutritious glass of beer. How many Members have been in Germany? Those of you who have been there know that you can go there and drink one or two glasses of beer and you are satisfied, and want no more. It is like a meal; but if you drink American, the more you drink the more you want.

It is not a question of nutrition, it is a question of how much alcohol it possesses; and I know that in days gone by a great many men in the saloon business would put alcohol into beer in order to get the individual under the influence of liquor.

[Here the gavel fell.]

The CHAIRMAN. The question is on the amendment proposed by the gentleman from Maryland [Mr. PALMISANO].

The amendment was rejected.

Mr. MICHENER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MICHENER: Page 1, line 6, after the word "than," strike out "3.2" and insert "2.75."

Mr. MICHENER. Mr. Chairman, the House has just gone on record by a decisive vote in a refusal to declare 3.2 per cent by weight or 4 per cent by volume nonintoxicating. Therefore the House has determined that there is at least a question as to whether or not 3.2 per cent beer is intoxicating. The House voted intelligently. Every Member here has discussed and heard this 4 per cent beer discussed for days past. Every Member here remembers pre-war beer and the number is small, indeed, who will agree that pre-war beer, as sold over the bar, was not intoxicating. We are told that what the people want is pre-war beer, and that if this bill is enacted into law the people will have pre-war beer.

The eighteenth amendment prohibits the manufacture and sale, for beverage purposes, of beer, if in fact that beer is intoxicating.

This bill purports to do two things: First, to legalize the sale of beer, porter, and ale of a maximum 4 per cent by volume alcoholic content; second, it attempts to raise revenue by placing a tax on these beverages thus legalized. I am heartily in sympathy with the raising of revenue to balance the Budget if it can be done by placing a tax on nonintoxicating beverages. I think the House is a unit on this proposition. Therefore the whole question before us is: Is this 4 per cent by volume alcoholic content in beer, porter, and ale intoxicating?

The Ways and Means Committee have devoted several days in hearing testimony. A perusal of the printed hearings shows that the most of the time of the committee was taken up by those advocating a revival of the brewing industry as such, for the purpose of manufacturing old-time beer that would be freely purchased by beer drinkers throughout the country. With the committee, so far as the hearings are concerned, it was largely a question of prohibition and anti-prohibition, with a small portion of the testimony bearing directly upon whether or not these particular beverages would intoxicate. No conclusion can be drawn from the hearings other than the proponents of this bill are satisfied that the American people want beer—the pre-war beer and beer with the old-time kick. Whether or not this is true is beside the question. The powers of Congress are circumscribed in this instance by the Constitution, and I can not see how any Member of this body can be intellectually honest and vote to legalize a beverage which he in his own mind believes is intoxicating. I for one value my oath to the extent that I will not vote for beer which I believe to be intoxicating, so long as the eighteenth amendment remains in the Constitution.

A few days ago I voted to submit the question of repeal to the States. I will vote at any time to submit to the people this question, in order that they may determine

whether or not the eighteenth amendment should be repealed.

During the last campaign I took the position that as the people's representative I should vote on the matter of resubmission, as directed by my constituents in a referendum on State constitutional prohibition. I said further that I would vote for the taxation of beer which could be lawfully manufactured and sold under the Constitution. I shall keep my pledges in these particulars.

As prosecutor in my home county for eight years, I am familiar with the prosecution of many men for being drunk—men who became drunk from intoxicating draught beer bought over the bar, beer the analysis of which in court showed an alcoholic content of less than 4 per cent by volume. This was the type of beer manufactured by many local breweries and used generally throughout the rural districts. With this knowledge and having had this practical experience, I could not be honest with myself and vote for a bill which reinstated that which I know to be intoxicating, so long as the eighteenth amendment stands. Unquestionably, the majority of the Members of this House were prompted by this same feeling when just a few minutes ago they refused to declare that this kind of beer is not intoxicating.

I am thoroughly satisfied that if this bill as drawn ever becomes a law that it will be declared unconstitutional by the Supreme Court. The Supreme Court could hardly do otherwise than to take judicial notice of the fact that prewar beer was intoxicating, and then if they accept the statement in the hearings and from this floor that it is the purpose of Congress to reinstate the legal status of pre-war beer, but one conclusion could be reached.

Just a few minutes ago the presiding officer in this body took judicial notice of the fact that there were three kinds of intoxicating liquors—vinous, malt, and brewed—and by the same token the Supreme Court will take judicial notice that the beer of other days, which was around 4 per cent by volume, is intoxicating in fact.

The passage of this bill will do more to delay or prevent the repeal of the eighteenth amendment than any one thing of which I can think. Of course, if this beverage is not intoxicating, then the Congress should not attempt to regulate or control its sale. If we are to manufacture and sell the beer, for the purpose of balancing the Budget, the more we can manufacture and sell the better, and if the beer is wholesome and nonintoxicating no injury can be done anyone. However, amendments will be offered here by those who are most enthusiastically supporting this bill, providing for the issuance of permits and regulating the places where this beer may be sold. You know and I know that the position that the sale must be controlled is inconsistent with the theory that the beverage is not intoxicating.

There are many of our citizens who feel that Congress should legalize the sale of nonintoxicating beer, and that this will raise a large revenue, but most of these same people are opposed to the eighteenth amendment, and if they thoroughly understand the situation will rebel against a subterfuge of this kind. The American Federation of Labor, the workingman's organization, has asked for 2.75 beer. They are not asking for 4 per cent beer. They do not want highly intoxicating beer, and the manufacturers themselves are divided.

This amendment would reduce the alcoholic content to the highest point which has been advocated by the proponents of beer down through the years since we have had prohibition, until very recently. I do not believe that this bill will ever become a law without amendment, and if it should become a law, and this beer is placed on the open market, to be sold at soda fountains and elsewhere, this action will bring down upon this Congress the wrath of the people, all of whom, if we are to be guided by the platforms of the major political parties, are opposed to the manufacture and sale of intoxicating liquors under the present Constitution.

Mr. WILLIAM E. HULL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it is all very well for a man who intends to vote against the bill to get up here and pretend he is going to vote for it and make his speech, when we all know that the one who introduced this amendment has no intention of trying to pass this bill.

Mr. MICHENER. I think the gentleman is presuming.

Mr. WILLIAM E. HULL. The gentleman's speech tells us that, and there is no use going any farther into that subject.

Now, here is all there is to this 3.2 per cent by weight and 2.75 by weight—it is a difference of 0.45 per cent. The difference is so small that no one, in my judgment, even a brewmaster, could tell whether you had a glass with 2.75 per cent in it or 3.2 per cent. The only reason the proponents of the bill and those interested in doing what the people of this country want make this 3.2 per cent by weight is to substantiate the beer with the extracts and ingredients that are necessary to make it a good beer. As far as the alcoholic content of 3.2 per cent or 2.75 per cent by weight, it would make no difference to the brewers so far as the alcohol is concerned. That is the least thing to be considered; but in order to brew this beer up to a point where it is good, substantial beer, it is necessary to have at least 3 per cent alcohol in it to do that. If you try to brew the beer with 2.75 per cent alcohol, then you are just low enough so that you can not retain the extracts and the other particles that go with beer to make it a good beer, and this is the only reason we are asking for a 3.2 per cent beer.

So far as the intoxicating effect is concerned, it is nothing. There is scarcely any difference between them when it comes to intoxication, because both of them are nonintoxicating. No man should know that better than myself. I have been in the business for 28 years, and I understand what is intoxicating and what is not. I know that 3.2 per cent beer is not intoxicating and never was intoxicating, and the only reason they claim such beer was intoxicating is this: You will hear men get up here and make the statement on the floor of the House that they have seen men coming out of saloons drunk, but I will guarantee that 80 or 90 or even 100 per cent of those men who came out of those saloons drunk drank something besides beer.

Mr. McCORMACK. Will the gentleman yield?

Mr. WILLIAM E. HULL. Yes.

Mr. McCORMACK. Is it not a fact that the preprohibition beer that was intoxicating contained a much higher percentage of alcohol than the beer provided for in this bill?

Mr. WILLIAM E. HULL. Such beer, as we all know, contained on the average 4 per cent by volume, which is 3.2 per cent by weight. There were some brewers, especially in the East, that made a higher alcohol percentage beer; that is, they put more alcohol in it, but gradually the brewers got down to a 4 per cent beer, and even when they were making beer at 2.75, they preferred it to a high alcoholic beer because the people liked it; but if you go below 3.2, you are going to destroy the very thing you are trying to do here, and that is to give them a nonintoxicating beer that they will want to drink.

Why do you want to spoil it in this way?

There is another thing that must be borne in mind. All brewers when they make their beer must have a tolerance of at least two-tenths of 1 per cent; in other words, no brewer is going right up to the limit. If he does he is likely to be caught by the Internal Revenue Bureau. So when you are voting for 3.2 per cent you are, in reality, only getting 3 per cent by weight.

Mr. BRITTEN. Will the gentleman yield?

Mr. WILLIAM E. HULL. Yes.

Mr. BRITTEN. Does not the gentleman believe the Treasury will benefit immeasurably by providing for a 3.2 per cent rather than a 2.75 per cent beer?

Mr. WILLIAM E. HULL. It will double the amount of revenue, of course, and anybody with common sense knows it.

Let me read you what Professor Henderson, who is the best authority we have on this subject, said. I could read, if

necessary, what his various titles are, but let me read you what he stated:

Beer of 3 per cent alcohol is not palatable—

Speaking of 3 per cent by volume—

beer of 6 per cent or more alcohol may be distinctly intoxicating if drunk in large amounts. Beer of 4 per cent is not appreciably more intoxicating than an equal volume of coffee.

[Here the gavel fell.]

Mr. MEAD. Mr. Chairman, so far I have not injected myself into this debate, and I shall be very careful not to take much of the time of the House from now on.

This bill, which comes from the Committee on Ways and Means, received very careful consideration by that committee. Hearings were held and expert counsel and advice was secured.

To my mind, the bill as reported merits the support of all those who believe in the principle involved in this legislation. That principle ought to be retained in the bill, and such amendments of a major character that would increase or decrease the alcoholic content and such amendments as would either increase or decrease the tax should be defeated by the House. This bill meets with the platform approved by the recent Democratic National Convention. This same principle received the majority vote of the committee on resolutions which drafted the modification plank and was overwhelmingly approved in the convention itself. It is the very same principle that was indorsed by the American people in the national election of November last.

Let us therefore pass the bill as it comes to us from the committee and send it on to the Senate.

In connection with this pending amendment let me say, if we are to reduce the alcoholic content from 3.2 to 2.75 per cent, we increase the cost of the beer, we destroy the possibility of selling a 5-cent glass of beer, because we make it necessary for the brewers to put it through the added process of dealcoholization after the beer is once made. This was tried out during the war, when the alcoholic content of beer was reduced from 3, 4, and 5 per cent to 2.75 per cent. It only served to impair the quality and increase the cost.

Leave the alcoholic content at 3.2 per cent and you will permit the industry to manufacture a better beer at less cost. More revenue will result and, as this is also a revenue measure, that feature certainly should be taken into account.

So I say the bill, so far as its principal features are concerned, ought to be kept intact and all amendments that would defeat the purposes of the legislation should be defeated.

This is only the beginning of the fight to wipe out the sumptuary laws adopted since the World War. If we enact a half-baked beer bill with an excessive tax we will have bootlegging and racketeering to contend with for many years to come. [Applause.]

We ought to vote down this amendment and every other similar amendment and stick to the bill as reported by the committee. Let us finish the bill and send it to the Senate as soon as possible. [Applause.] We ought to do that and then go home and enjoy Christmas, happy in the thought that we kept faith with the American people. [Applause.]

Mr. WOOD of Indiana. Mr. Chairman, I move to strike out the last word, and I rise in opposition to the amendment.

Mr. RAINEY. Will the gentleman yield for me to make a unanimous-consent request?

Mr. WOOD of Indiana. I yield.

Mr. RAINEY. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 10 minutes.

The CHAIRMAN (Mr. WARREN). The gentleman from Illinois asks unanimous consent that all debate on this amendment and all amendments thereto close in 10 minutes. Is there objection?

Mr. DYER. I object.

Mr. RAINEY. Then, Mr. Chairman, I move that all debate on this amendment and all amendments thereto close in 10 minutes.

Mr. O'CONNOR. Mr. Chairman, what amendment is referred to?

The CHAIRMAN. The amendment of the gentleman from Michigan.

Mr. DYER. The debate on the Michener amendment was exhausted and the debate on this amendment will be exhausted in five minutes, and it is my purpose to make the point of order that further debate is out of order.

The CHAIRMAN. The gentleman from Illinois moves that all debate on this amendment and all amendments thereto close in 10 minutes.

The question was taken, and the motion was agreed to.

Mr. WOOD of Indiana. Mr. Chairman and members of the committee, I voted for the beer bill at the last session of Congress which provided for 2.75 beer, and I would like to vote for this bill and will vote for it if it is properly amended.

There is no use in trying to fool ourselves into the belief that 4 per cent beer is not intoxicating. Everybody that ever had anything to do with the enforcement of the criminal law in this country knows that it is intoxicating. The gentleman from Michigan [Mr. MICHENER], as prosecuting officer, has given his experience. I was prosecuting officer for four years, and 80 per cent of all drunks that came before the police magistrates in that time had become drunk on beer.

If that was true then, it is true now. The bill is ridiculous in this, that it provides that the beer authorized to be manufactured in the bill can not be carried into a State that desires to be under prohibition. If it is not intoxicating, there is no use, then, whatever for that provision in the bill, and I say as a lawyer that if it remains in the bill and it ever goes to the Supreme Court on that proposition, the Supreme Court will hold it unconstitutional, because it is in restraint of trade. You have no more right to say that beer that is not intoxicating shall not be shipped into a State than you have to say that coffee or tea or ice cream shall not be shipped into that State. The bill is ridiculous on its face, and I hope that an amendment will be introduced striking out that portion of this bill.

At the last session of Congress the proponents of this measure, or of a measure similar to it, were perfectly content with a bill providing for 2.75 per cent beer. I believe that 2.75 per cent is not intoxicating, and I believe the Supreme Court would so hold, but I believe, on the other hand, that it will hold that 3.2 per cent beer is intoxicating. If we want to pass a bill, we should pass one that does not make every man who supports it ridiculous in the eyes of the law and ridiculous in the eyes of common experience. As a friend of the measure, I hope that this amendment will obtain.

Mr. DYER. Mr. Chairman, I make the point of order that debate on this amendment which is now before the House has been exhausted.

The CHAIRMAN. There is five minutes remaining of the time fixed by the motion of the gentleman from Illinois [Mr. RAINEY]. The gentleman's point of order is good as far as the pending amendment is concerned, but a motion to strike out the last two words would be in order, and the Member making such motion would be entitled to the five minutes remaining.

Mr. CELLER. Mr. Chairman, I move to strike out the last two words and I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. CELLER. Mr. Chairman, I hope that the amendment of the gentleman from Michigan [Mr. MICHENER] will not prevail. Those who are in a position to know what is or is not intoxicating indicated before the Ways and Means Committee beyond peradventure of a doubt that a 4 per cent by volume beer, or 3.2 by weight, is not intoxicating, and Professor Henderson, of Yale, than whom there is probably

no better expert on the subject of toxicology, testified that such a beer is so dilute as to be nonintoxicating. He said that a beer containing less than that would be unpalatable. We know from the investigations made, for example, by the faculty of political science of Columbia University, headed by Prof. Clark Warburton, that over 30,000,000 barrels of beer was consumed in this country in 1930, a little less in 1931—see volume entitled "The Economic Results of Prohibition," Columbia University Press, 1932, page 31—as a result of beer flats, alley brewers, and home brew.

If you make this beer in this bill unpalatable, if you make it unsuited to the taste of the American beer-drinking public, you are going to have your labor for your pains. You will not stop the illicit manufacture and distribution of beer, and you will not get the revenue. The 3.2 beer by weight, the experts tell us, is not only intoxicating but would satisfy the American workingman and the American beer-drinking public. Let us have it. The public gets what it wants. It wants 4 per cent beer. Give it to them. They will get it no matter what we do. Therefore, give it to the people lawfully and procure the much-needed revenue.

I would like to have the attention of the gentleman from Michigan [Mr. MICHENER] on the subject of what the Supreme Court might do. Has it ever occurred to the gentleman from Michigan as to how a case could ever reach the Supreme Court—on the criminal side of the court, at least?

Mr. MICHENER. Yes; and I would like to answer the gentleman's question.

Mr. CELLER. I will let the gentleman answer it in a moment. All that the United States district attorney can do is to prosecute if there is a violation of some statute, and if we pass this bill, what statute is violated if a man makes or sells 3.2 by weight or 4 per cent by volume beer? The United States attorney, whose duty it is to maintain the constitutionality of a statute and not attack it as being unconstitutional has no statute before him which has been infringed. There is no culpability attached to anyone who makes or distributes such beer. How under the sun can a case ever get to the United States district court, and if there can be no case there, how can there be an appeal to the circuit court of appeals, and how, therefore, could any case ever reach the Supreme Court of the United States on the criminal side? That is a matter for serious consideration, and it has not been adverted to in the instant debate, as I understand it, up to this point, although I think my good friend from Pennsylvania [Mr. BECK] did dwell upon it in his usual wise and sagacious way the other day. There is a bare possibility that the case might reach the Supreme Court on the civil side, but there are grave doubts as to that.

There may be a contract for the shipment of beer of this character; somebody may wish to get out of his contract, may not wish to perform, and may raise the question of the constitutionality of the statute; but I have my doubts about that, and many students of the subject have their doubts as to whether the case could ever reach the Supreme Court even in that way. You see, the eighteenth amendment is not self-executing. It can not enforce itself. It needs an enforcement act, like the Volstead Act. Suppose we repealed the Volstead Act in toto. Then the eighteenth amendment would stand alone. It would have had its teeth drawn. There would be left no fines, no penalties. One could then offend the eighteenth amendment with impunity. In other words, the amendment is like one of the Ten Commandments. They can be infracted. But what is the penalty? Only a moral penalty. So with the eighteenth amendment without a Volstead Act. Only a constitutional principle is violated. No one could be fined. No one could go to jail.

If we pass this bill, we amend the Volstead Act; we cut away part of it; we say that its fines and penalties shall not apply to beer below 4 per cent by volume. Therefore, if anyone, after the passage of this act, makes such beer or sells such beer, he is not subject to any fines or penalties, because he has violated no law. The Congress has exculpated him.

The other day we passed a declaratory judgment bill, which enables questions to be brought before the court, and finally to the Supreme Court, prior to the arising of a controversy, and even prior to the commission of any wrong. If the Senate passes this bill and the President signs it, then there may be a possibility of this beer bill being tested in a friendly way through the medium of the declaratory judgment.

At this stage of the game there is no way by which, as I understand it, the case could reach the United States Supreme Court.

Mr. MICHENER. I may say that I was advised by one of the proponents of the bill that the very purpose of the bill was to make the alcoholic content so high that you could not get into the court through the district attorney's office, that the only way you could possibly get in would be as suggested by the gentleman or possibly by this new-spun theory of an injunction to enforce the Constitution.

Mr. CELLER. I doubt very much whether that could be. But let us suppose the way is clear for a test case that could reach the United States Supreme Court. What would the Supreme Court do?

Let us examine the case of Jacob Ruppert *v.* Caffey (251 U. S. 264). Judge Brandeis, writing the opinion of the court, said in part:

At page 282:

* * * For the legislation and decisions of the highest courts of nearly all the States establish that it is deemed impossible to effectively enforce either prohibitory laws or other laws merely regulating the manufacture and sale of intoxicating liquors, if liability or inclusion within the law is made to depend upon the issuable fact whether or not a particular liquor made or sold as a beverage is intoxicating. In other words, it clearly appears that a liquor law to be capable of effective enforcement must, in the opinion of the legislatures and courts of the several States, be made to apply either to all liquors of the species enumerated, like beer, ale, or wine, regardless of the presence or degree of alcoholic content; or, if a more general description is used, such as distilled, rectified, spiritous, fermented, malt, or brewed liquors, to all liquors within the general description regardless of alcoholic content * * *.

At page 299:

* * * The police power of a State over the liquor traffic is not limited to the power to prohibit the sale of intoxicating liquors, supported by a separate implied power to prohibit kindred nonintoxicating liquors so far as necessary to make the prohibition of intoxicants effective; * * *.

In other words, the court said that the Congress could go a great distance in order to effectively administer and enforce the Volstead Act. It said it could go a great distance to the left of the center and ban nonintoxicants up to one-half of 1 per cent. By token of the same reasoning, the Congress can go as far to the right of the center and take the ban off beverages up to 4 per cent by volume. Certainly it is obvious that the corollary of the reasoning of the court would permit Congress to consider reasonably a less rigid classification of beverages essential to effective enforcement of the eighteenth amendment; particularly because of changed conditions and changed public opinion.

In the Lambert case, the court said that for the sake of effective enforcement doctors could not prescribe beer as a medicine. This was contrary to the best medical opinion, but the court said such condition was necessary in order to effectively enforce the eighteenth amendment. It, therefore, took the therapeutic value out of beer.

Certainly if Congress can go as far as that and be sustained by the Supreme Court, Congress can say, and be sustained by the Supreme Court, that 4 per cent beer is necessary for the effective enforcement of the eighteenth amendment, to wit, the banishing of beer rackets, alley breweries, and home-brew.

It must be remembered that the Jacob Ruppert against Caffey case, which was one of the decisive cases upholding the eighteenth amendment and the Volstead Act, involved the decision of a divided court. There were four dissenting

judges and five in the majority. One vote would have made a vast difference.

That one vote at least will be captured for the wet side undoubtedly when the next case reaches the Supreme Court. Even the Supreme Court must bow down before public opinion.

What the Supreme Court said a few years ago it may not say to-day. The minority opinion of seven or eight years ago may well become the majority opinion of to-day. Rest assured that the Supreme Court not only follows precedents but it follows the economic life of the Nation. You have but to read the minority opinion of Supreme Court Justice Brandeis in the case of New State Ice Co. *v.* Liebmann (No. 463, October term, 1931) to see that, where he took judicial notice of the depression, of the slough of despond in which we find ourselves, and he said this:

> The people of the United States are now confronted with an emergency more serious than war.

Where did we ever hear before of a Supreme Court justice taking judicial notice of the surrounding economic situation as Judge Brandeis did? The judges not only follow precedents but they follow elections. The court will take notice of changing sentiment among the people and of the great repeal vote. Thus, I verily believe that the provisions of the Collier bill will be declared constitutional.

President Wilson in an address before the American Bar Association, October 20, 1914, said:

> The opinion of the world is the mistress of the world.

We might well paraphrase that statement by saying:

> The opinion of the United States is the mistress of the United States.

He also said:

> The thoughtful eye of the judge rests upon the changes of social circumstances and almost palpably sees the law arise out of human life.

The Supreme Court when the case comes before it will register the mighty changes of social circumstances and will recognize that there were 21,000,000 wet votes cast in the last election and that 272 Representatives, only 6 shy of a two-thirds vote, voted for out-and-out repeal.

The Supreme Court will always recognize that the law is not static. It is a vehicle of life. It marches on. It is inconclusive. It is dynamic. The law must follow the ever-changing public opinion, and public opinion has certainly changed on the subject of prohibition.

Now, gentlemen, as realists we must recognize the situation that is developing in this country to-day. During the last election some eight States—Arizona, Louisiana, Colorado, Washington, Michigan, California, North Dakota, and Oregon—repealed their enforcement statutes. Two of them—North Dakota and Michigan—I believe, repealed their constitutional enforcement provisions. They joined the previous wet procession of some seven other States—Maryland, Massachusetts, Montana, Nevada, New Jersey, New York, and Wisconsin. There are 15 States to-day that have no State enforcement provisions.

To my mind that is nullification with a vengeance, because under the eighteenth amendment these States are supposed to exercise their powers concurrently with the Federal Government to enforce the eighteenth amendment and its handmaiden, the Volstead Act. They refused to do so, and that is nullification beyond question.

Rhode Island's enforcement act starts with 3 per cent, and there are two States—Wyoming and Texas—that have by recent referenda petitioned this Government to provide for some sort of repeal. Pennsylvania, Missouri, Minnesota, by their statutes, follow the standard laid down by the Federal Government. If you pass the Collier bill, for example, that law will be applicable as a State statute in the States of Pennsylvania, Missouri, and Minnesota.

Twenty-one States, therefore, are in a veritable wet parade, and what is the public opinion in those States? Certainly the public opinion is not wedded to the enforcement of the eighteenth amendment. You have Governor Rolph, of California, saying that he is going to pardon all prohibition prisoners, and you have Mayor Cermak, of Chicago, saying, "Come in, boys, and make all the beer you want."

Can you get convictions in those States for violations of any provision of the Volstead Act? If you are going to get convictions in these States, because of the changing public opinion, it is going to be mighty difficult. Attorney General Mitchell, in his report which was given to us recently, made this very significant statement:

> It is evident that the present state of public opinion will make the task of the officers of the law doubly difficult and increase a breakdown and disrespect for the law unless changes which are to be made are made speedily.

All of which means, my good friends, that we are entering upon an era of utter lawlessness, far worse than the lawlessness we have been used to in the last few years, and I believe that as a result of this changed public opinion, as a result of the election, as a result of the recent vote on repeal in the House, the bootleggers are going to become bolder, and the racketeers more vicious, and the gangsters more brazen, and the hijackers more venturesome.

Now, as to the toxic qualities of 4 per cent by volume beer, permit me to repeat my testimony before the Ways and Means Committee (p. 126 of hearings):

> We have a decision, a very significant decision, on the statute books which, as far as I know, remains unchallenged. One of our former colleagues from Maryland, Representative Hill, some years ago made some cider and he made some wine, and invited his friends to his home to watch the situation and to partake of the resulting product. He was brought to book and tried.
>
> Mr. HILL. Designate which Hill.
>
> Mr. CELLER. John Philip Hill; I should have done so. I think I said the gentleman from Maryland, one of our distinguished colleagues at the time; and Judge Soper, in that trial (1 Fed. (2) p. 594), made a very significant charge to the jury. The charge is still the law of this land as far as judicial interpretation of section 29 is concerned.
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> Mr. VINSON. You do not mean that a charge of a court is the law of the land?
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> Mr. CELLER. You listen to the charge of the court; that jury followed the charge of the judge, and that charge, as far as the district court is concerned in Maryland, is in that district and in all other districts of comparable jurisdiction the law of the land, and I will read it to you.
>
> "Intoxicating liquor is liquor which contains such a proportion of alcohol"—
>
> And I may say to the gentleman that the Prohibition Unit, the Treasury Department, and the Department of Justice had to be satisfied with the law in this case.
>
> Mr. VINSON. The verdict was not guilty.
>
> Mr. CELLER. Yes; but they never appealed the question in any other case where it arose, and there was ample opportunity for the Government to take up the question in other cases. They could not have taken it up in this particular instance, but there was certainly a wide latitude given to the Government in other jurisdictions to challenge the words of the charge to the jury by Judge Soper:
>
> "Intoxicating liquor is liquor which contains such a proportion of alcohol that it will produce intoxication when imbibed in such quantities as it is practically possible for a man to drink"—
>
> Mind you, I will say this: This comes under section 29 and there is not the limitation contained in the general provisions of the Volstead Act of one-half of 1 per cent, and, as the gentleman well knows, it is incumbent upon the jury to find that the beverage was intoxicating in fact, and Judge Soper, in endeavoring to elucidate the rule and the principle, made these statements—
>
> "and that is the test that you are to apply to the decision of this issue of fact. You will consider in that connection the alcoholic content of the liquors. So far as the wine is concerned, it runs from 3.4 to 11.68. If, in your judgment, any of that wine was intoxicating, whether or not in your judgment all of it was, the charge of the first two counts is made out. It is not a question in any case of whether a drink which a particular individual had at a particular time made him drunk, but whether or not the article is capable of producing drunkenness."
>
> Perhaps I might say, interpolating here, that the intoxication under this law, particularly section 29, which is applied to wines in general in the Collier bill, is what you and I ordinarily understand by the word drunkenness.
>
> "If this wine was capable of producing drunkenness taken in sufficient quantities, that is to say, taken in such quantities as it was practically possible for a man to drink, then it was intoxicating."

Judge Soper's charge to the jury remains the unchallenged law, so far as court records are concerned, on the question of what is intoxicating.

We must consider very profoundly these conditions. Beer and wine and liquors are being sold and will continue to be sold no matter what we do here. Let us legalize at least

beer, get the revenue out of it, and satisfy the people, and thereby strike a blow at some of the bootleggers and racketeers by making it not worth their while to stay in the business. Let the next step be the legalizing of wine, to be followed soon by absolute repeal. Then and only then will there be real peace in the land and real relief. Then and only then will we bring back sanity to our Government.

Furthermore, the economic value of this legalizing of beer will be inestimable. Benefits to business would involve the distribution, packing, and selling of beer—if legalized, would affect a large number of industries. Some of these businesses and the benefits they would receive, according to the testimony of their representatives, are as follows:

Cooperage: About 200,000 barrels are now in the hands of the brewing industry, and about 12,000,000 more would be required.

Steel: About 108,000 tons of steel would be required for hoops on the barrels.

Motors: About 5,000 trucks, costing $25,000,000, would be needed for the first year of operation.

Electrical industry: The rehabilitation of the beer industry would involve from $320,000,000 to $400,000,000 of construction expenditures.

Glass: The return of beer would require 864,000,000 bottles a year, providing work for 6,000 men in their production.

Metal industries: Benefits to the amount of several hundred million dollars are expected.

Refrigerator business: Beer legislation would result in $20,000,000 worth of business in 1933.

Wooden boxes: Return of beer would bring $40,000,000 worth of business annually.

Bottle-making machinery: Legal beer would raise the pay roll $6,000,000 a year.

Railroads: Would benefit to the extent of about $50,000,000 a year.

The National Association of Manufacturers, through John A. Emery, stated that business in general would be stimulated by revival of a dormant industry, and that the bill would promote social betterment. The case for labor was put by Matthew Woll, who estimated that 1,000,000 additional men would be employed by the legalization of beer.

The hop industry, according to John J. Haas, has sunk to a low level since the enactment of prohibition, and a total of from 45,000 to 60,000 acres in hops had been reduced to about 21,000. New York State, he said, once had a flourishing hop industry, with an output of 11,000,000 pounds a year, which had been cut to less than 50,000. He predicted that legalizing of beer would bring this industry back to its former status.

To give some idea of how the passage of this bill would affect, for example, the city of Brooklyn, you are advised that prior to prohibition there were 26 breweries operating in Brooklyn, giving employment to thousands of people and involving millions of invested capital. If my memory serves me correctly, these breweries were the following:

Piel Bros., Trommers, S. Liebmann Sons, Obermeyer & Liebman, Otto Huber, New York and Brooklyn, Nassau, Leonard Michel, Indea Wharf, Excelsior, Leonard Eppig, Consumers, L. & A. Schaefer, Ferdinand Münch, Ullmer, Jos. Fallert, Ochs, Seitz, Williamsburg, Welz & Zerwick, Franks, Neltzer Bros., Frank Ibert, Ohme & Leibinger, H. B. Scharman, and North American.

Starting the breweries and giving the people beer would have a tendency to whirl things around. It would stir up the stagnant waters of depression. To change the metaphor, it would be like the starting whistle of a game. We are all set and ready to go. So, let's go!

The CHAIRMAN. The time of the gentleman from New York has expired. All time has expired. The question is on the amendment offered by the gentleman from Michigan.

The question was taken; and on a division (demanded by Mr. MICHENER) there were—ayes 75, noes 124.

So the amendment was rejected.

Mr. MOUSER. Mr. Chairman, I offer an amendment, which is at the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. MOUSER: Page 1, in the title of the bill, after the word "certain," strike out "nonintoxicating" and insert the word "intoxicating."

Mr. LEHLBACH. Mr. Chairman, I make a point of order that the title of the bill is not before the committee.

The CHAIRMAN. Does the gentleman from Ohio desire to be heard on the point of order?

Mr. MOUSER. Yes, Mr. Chairman.

It seems to me that if we are reading a bill by paragraphs, subject to amendment, we are proceeding under the 5-minute rule, which provides that we can amend by paragraphs; and the title of the act, in its relation to the paragraphs which are supposed to deal with nonintoxicating liquors, is always before us. In other words, taken in relation to the Volstead law, which it is sought to modify, it seems to me the question of whether or not this ale and beer is sought to be legalized up to 4 per cent alcohol by volume is vital as to whether it is intoxicating or nonintoxicating. It seems to me the title of the act, in its relation to each paragraph, is a proper one for consideration and should properly be before us.

The CHAIRMAN (Mr. BANKHEAD). The Chair is prepared to rule. The gentleman justifies his amendment on the proposition that it is within the rules of the House, but the gentleman from Ohio has evidently overlooked the provision of the rules of the House that the amending of the title of a bill or resolution shall not be in order until after its passage, and shall be decided without debate. Therefore the Chair sustains the point of order.

Mr. O'CONNOR. Mr. Chairman, I offer an amendment, which is at the desk.

The Clerk read as follows:

Amendment offered by Mr. O'CONNOR: Page 2, line 2, strike out "$5" and insert "$7.50."

Mr. RAINEY. Mr. Chairman——

The CHAIRMAN. Does the gentleman from New York yield?

Mr. O'CONNOR. I yield, Mr. Chairman.

Mr. RAINEY. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 10 minutes.

Mr. O'CONNOR. Mr. Chairman, a parliamentary inquiry. Under the rules that would follow.

The CHAIRMAN. That prohibits the offering of additional amendments. If unanimous consent is agreed to, the amendments could not be discussed.

Is there objection to the request of the gentleman from Illinois?

Mr. KVALE. Reserving the right to object, I would like to ask the gentleman from Illinois [Mr. RAINEY] if it would not be possible to make an effort at all stages of debate upon this measure to see to it that no place is reached where an amendment is acted upon without at least a chance to explain it.

Mr. RAINEY. Ten minutes ought to be enough. From now on, as far as this section is concerned, I shall attempt to limit the debate on each amendment to 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. O'CONNOR. Mr. Chairman, I realize the temper of this committee is to proceed with this bill with all possible expedition. I have listened to a number of statements that the bill should not be touched in any respect. I think that such an attitude is most unfortunate. I believe that when a bill is read for amendment it is in fact read for amendment, and I believe there are a number of important amendments that should be put into the bill to perfect the bill. I suggested a number of them in the RECORD of yesterday, such as protecting the American farmer and taking the granting of permits out of the control of the Prohibition Bureau, where preferences, monopolies, and scandals may result.

Now, as to the amendment which I have just offered increasing the tax to $7.50 a barrel, I presented that amend-

ment for the reason that I do not believe it makes much difference what the tax is, as far as the consumer is concerned. Last May the brewers said that $7.50 was perfectly fair. It is equivalent to 3 cents a pint. It was then acceptable to them. Last May 169 Members of the House voted for it.

Now, this is the situation as I see it. Let me make the prediction that the first barrel of beer legalized under this bill that comes from a brewery in the United States will be sold for $25 a barrel, or as much more as the traffic will bear, so that the $2.50 difference between $5 and $7.50 will be additional profit to the brewer. The bootlegger now gets about $36 a barrel for the beer. He can not compete at $25, and the brewer will keep up to that margin where the bootlegger can not compete. The bootlegger could not compete even on a $20 tax. There is not enough margin, due to his excessive overhead, including bribes. Last May the brewers told us they could sell beer with a $7.50 tax for $13 a barrel and make a handsome profit, but when they saw victory about to come they began issuing propaganda to keep the tax down.

I am for the 5-cent glass of beer. I am for the consumer. That has always been my prime motive in this legislation, but we must raise revenue. These are particularly the years we need it. We can reduce the tax later on. My idea is to get the revenue while the "getting is good." I believe this beer will be consumed more in the next two years than it has been in the past or will be in the years to come. That is why I am for the $7.50 tax. It is passed on to the consumer, in any event, and the consumer is going to pay just as much under the $5 tax as he will under the $7.50 tax, and I want you to carry in your mind that $13 per barrel beer will be sold for $25.

Mr. COCHRAN of Missouri. Will the gentleman yield?

Mr. O'CONNOR. I yield.

Mr. COCHRAN of Missouri. The gentleman has made a statement that is misleading, and I would like to know his authority for standing on the floor of this House and predicting the sale of beer at $25 a barrel. He has no more authority than the gentleman from Indiana, Mr. WOOD, who poses as an advance agent for the Supreme Court. Let us have facts, not dreams. The legitimate brewers are not racketeers.

Mr. O'CONNOR. Well, they may not be racketeers, but I am not so hopeful that they will not become profiteers. They will get all the traffic will bear, and on the other hand the Government should get all the tax they can get.

I think it is unfortunate that amendments are not to be considered on this bill, which I believe does need perfection. I think it is perfectly ridiculous that the $6 tax now on the statute books, $6 a barrel on beer, is to be reduced rather than increased when we call the bill a measure to raise additional revenue. Just contemplate that we are reducing the present tax instead of raising it.

Mr. REILLY. Will the gentleman yield?

Mr. O'CONNOR. I yield.

Mr. REILLY. Does not the gentleman think the States ought to have some revenue?

Mr. O'CONNOR. The States will get some revenue, of course, as they always did on such beverages. There is nothing we can do here to affect that situation. Our present obligation is to find revenue for the National Government.

I submit that the tax should not be less than $6, which is the present tax, but because this bill is so sacrosanct and must not be touched, even by its friends, Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read as follows:

SEC. 3. (a) Subdivision (1) of section 1 of Title II of the national prohibition act, as amended and supplemented (relating to the definition of liquor and intoxicating liquor) (U. S. C., title 27, sec. 4), is amended by striking out "and is otherwise denominated than as beer, ale, or porter," and by striking out the period at the end thereof and inserting in lieu thereof a colon and the following: "*Provided further*, That the terms 'liquor,' 'intoxicating liquor,' 'beer,' 'ale,' and 'porter' as used in this act shall not include beer, ale, porter, or similar fermented liquor, containing 3.2 per cent or less of alcohol by weight, and such beer, ale, porter, or similar fermented liquor may be sold in or from bottles, casks, barrels, kegs, or other containers, but such bottles, casks, barrels, kegs, or other containers shall be labeled and sealed as the commissioner may by regulation prescribe."

(b) The term "intoxicating liquor," as used in the act entitled "An act to prohibit the sale, manufacture, and importation of intoxicating liquors in the Territory of Hawaii during the period of the war, except as hereinafter provided," approved May 23, 1918 (U. S. C., title 48, sec. 520), and the term "intoxicating drink," as used in section 2 of the act entitled "An act to provide a civil government for Porto Rico, and for other purposes," approved March 2, 1917, shall not be construed to include beer, ale, porter, or similar fermented liquor, containing 3.2 per cent or less of alcohol by weight; and the provisions of the act entitled "An act to prohibit the manufacture or sale of alcoholic liquors in the Territory of Alaska, and for other purposes," approved February 14, 1917 (U. S. C., title 48, secs. 261 to 291, both inclusive), shall not be construed to apply to beer, ale, porter, or similar fermented liquor, containing 3.2 per cent or less of alcohol by weight.

Mr. VINSON of Kentucky. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VINSON of Kentucky: Page 4, after line 2, insert a new paragraph, as follows:

"(b) Any person who sells or offers for sale any beer, ale, porter, or similar fermented liquor containing one-half of 1 per cent or more of alcohol by volume, and not more than 3.2 per cent of alcohol by weight, in less quantities than 5 gallons at one time, shall, before engaging in such business, besides qualifying under the internal revenue laws, also secure a permit under the national prohibition act, as amended and supplemented (including the amendments made by this act), authorizing him to engage in such business; which permit shall be obtained in the same manner as a permit to manufacture intoxicating liquor and be subject to all the provisions of law relating to such a permit. It shall be a condition of a permit that such fermented liquor shall not be sold or offered for sale in any place of the character commonly known as a saloon or in any place where there is sold or offered for sale any intoxicating liquor as that term is defined by section 1 of title 2 of the national prohibition act, as amended and supplemented (including the amendments made by this act). No permit shall be issued for the sale or offering for sale of such fermented liquor in any State, Territory, or the District of Columbia, or political subdivision of any State or Territory, if such sale or offering for sale is prohibited by the law thereof. Whoever engages in such business without such permit or in violation of such permit shall be subject to the penalties provided by law in the case of similar violations of the national prohibition act, as amended and supplemented."

Mr. LEHLBACH. Mr. Chairman, I make a point of order against the proposed amendment on the ground it is not germane to the section or to the bill.

The CHAIRMAN. Does the gentleman from Kentucky desire to be heard on the point of order?

Mr. VINSON of Kentucky. I do. This amendment provides for the issuance of a permit for the sale of the beverages referred to in paragraph 1. The gentleman making the point of order says that it is not germane to the section.

I would call the attention of the Chairman to the fact that it is offered to section 3, at the conclusion of paragraph 1, which, among other things, provides for the sale of the beverages herein involved "in or from bottles, casks, barrels, kegs, or other containers"; that "the bottles, casks, barrels, kegs, or other containers shall be labeled and sealed as the commissioner may by regulation prescribe."

I respectfully submit that the paragraph relates to the manner in which the beverages are to be sold. The amendment relates to the place of the sale of the beverages. The bill in its original form provides for the containers in which it shall be sold to the public. The amendment provides where they shall be sold.

The amendment provides that a permit for such sale shall be issued under the discretion of the commissioner. He determines the persons who shall use the barrels, casks, and the containers for the distribution of the product.

Further, in connection with the germaneness of the amendment to the section, I suggest that section (a), paragraph 1, provides that "the bottles, casks, barrels, kegs, or other containers shall be labeled and sealed as the commissioner may by regulation prescribe." I respectfully submit that this amendment simply adds to the discretion of the commissioner in respect of the place and manner of sale. I submit the amendment is germane.

The CHAIRMAN. Does the gentleman from New Jersey desire to be heard?

Mr. LEHLBACH. Mr. Chairman, this bill is purely and solely a bill to tax beer and to raise revenue. There is no provision whatsoever in it regulating the manner of its distribution or its sale. The bill levies a tax of $5 on every barrel of beer and an occupational tax of $1,000 on the brewer producing it. That is all there is in section 1 of the bill—simply the imposition of these taxes.

Section 2 of the bill modifies the national prohibition act simply to take the beer so taxed from within the provisions defending intoxicating liquors, which is a necessary complement to the taxing of the beer and has nothing whatever to do with regulating its distribution.

Section 3 provides for the containers in which the beer may be taken out of the breweries, and provides for the manner in which they shall be sealed, which is merely a provision to make effective the tax on the beer and has nothing to do with regulating or governing its use in consumption or in sale for consumption.

The CHAIRMAN. Without desiring to interrupt the thought of the gentleman from New Jersey, the Chair would like to inquire if it is not the gentleman's construction that section 3 is merely a matter of definition rather than affirmative legislation?

Mr. LEHLBACH. Yes. It defines and it prescribes that it may be sold from certain kinds of containers sealed by the commissioner, which is for the protection of the tax on the brewer and has nothing to do with, and does not contemplate the regulation of, the sale for consumption whatsoever. There is nothing in this bill which has anything to do with regulating the sale of beer for consumption. All the regulations are simply to make effective and collectible the tax imposed.

The CHAIRMAN. Does the gentleman from Wisconsin desire to be heard on the point of order?

Mr. STAFFORD. Mr. Chairman, certainly the amendment is not germane to this section. This section, as the Chair intimated in interrupting the gentleman from New Jersey [Mr. LEHLBACH], merely defines what is intoxicating. It is purely a question of definition so far as the first subdivision of this section is concerned, and as to the second subdivision it carries that thought out in protecting the special laws that Congress has passed providing for the regulation of liquor manufactured in Puerto Rico, Alaska, and the Hawaiian Islands. The proposed amendment is completely extraneous to the purview of this section. It is an entirely different matter and is not germane, either under this section or anywhere else in the bill.

The CHAIRMAN (Mr. BANKHEAD). The Chair is prepared to rule.

In making a ruling on this point of order the Chair thinks it might conserve time hereafter on other proposals that might be submitted to lay down what the Chair conceives to be a broad definition on the proposition of germaneness.

Of course, we all recognize that in order to preserve any degree of uniformity and cohesion in the rules, as well as in the precedents of the House, it is necessary for any occupant of the chair presiding over the Committee of the Whole to undertake as far as may be possible, under the peculiar circumstances, to follow the essential principles of the precedents and practices that have heretofore been established. Of course, the system of parliamentary construction with which we are now concerned has been builded up through a long series of years and undoubtedly is based upon sound parliamentary philosophy. It is a matter that has engaged, probably, the intellects of the most outstanding men who have had seats in the House of Representatives during a great number of years; and, of course, this particular question of the construction of the germaneness of a proposed amendment is one that has given presiding officers probably more concern than any other, because there are a number of cases where the proposed amendment seems to be in the border line or twilight zone. In order that the Chair may lay down a general proposition affecting this particular amendment and possibly some others that may be proposed along the same lines, the Chair thinks it proper to say that as a broad, general principle, Mr. Finis Garrett, whom some of the older Members here will no doubt recognize as one of the greatest parliamentarians who adorned this House for a number of years, laid down this principle on the essential consideration of what is germane in an amendment. He said:

> The present occupant of the chair had the honor of presiding as Chairman of the Committee of the Whole when the amendment was proposed to create a tariff commission as a part of a revenue bill. The point of order was made, and the Chair held, generally, that the meaning of the expression "germaneness" under the facts that were then presented was that the fundamental purpose of the amendment must be germane to the fundamental purpose of the bill.

Let us now look at the bill we are considering in the light of this construction. What do we find within the four corners of this proposal? To my mind it is essentially devoted to one purpose. It originated in the Committee on Ways and Means, having jurisdiction of that question, essentially and in essence as a revenue-raising proposition. The Chair does not think that we can find within any of the provisions of this bill justification for assuming that the Committee on Ways and Means, in reporting the fundamental purpose of this legislation, had in mind the question of regulation of the sale or any other matter affecting these beverages other than that described here as essential for producing revenue. All that is within the fundamental purposes of this bill, as the Chair construes it, is that it levies a tax upon beer at a stated rate and, in addition, imposes an occupational tax upon the brewers who make this commodity.

It is true that it becomes necessary, in construing the fundamental purpose, for the committee to set up certain machinery and to pronounce certain definitions and to provide the exemption of this commodity from the general operations of interstate law so as to make the fundamental purpose effective. But as the Chair reads the bill, the real essence of it, construed in the light of the theory the Chair has been discussing, is that it relates solely and purely to the matter of raising revenue for the Treasury of the United States.

In view of this construction, if it be the proper one, let us look at the amendment offered by the gentleman from Kentucky for a moment; and, of course, any Chairman of the Committee of the Whole is sometimes presented with the difficulty of ruling upon a question and ruling, probably, against the germaneness of an amendment which might appeal to him personally as desirable legislation, and such is the case in the present instance so far as the Chair is concerned; but, of course, that has nothing to do with the duty of the Chair in a judicial construction of the precedents of the House. The amendment as proposed not only attempts to require that these permits shall be issued to justify the brewer in making his beer and selling it and paying for the permit but, as the Chair reads it, it undertakes to go further and deal with the details of the handling and distribution of that commodity long after it has left the hands of the brewer, who is the only man we are dealing with in this legislation.

So, without going further into the refinements or niceties of the situation which might be further discussed, it seems to the Chair that the amendment fundamentally violates the fundamental purpose for which the bill was constructed. Therefore, the Chair reluctantly sustains the point of order.

Mr. McKEOWN. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

> Page 3, line 19, strike out the words "ale and porter."
> In line 20, strike out the words "ale and porter."
> Page 4, line 11, strike out the words "ale and porter."
> Line 18, on page 4, strike out the words "ale and porter."

Mr. RAINEY. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma.

The question was taken, and the amendment was rejected.

Mr. LAGUARDIA. Mr. Chairman, I move to strike out the last word. May I ask the chairman of the committee what is the purpose of paragraph (b), now under consideration? Will that permit the Territories of Alaska, Puerto Rico, and Hawaii to determine for themselves, or will additional action by Congress be required in order to give them the same benefits provided for in this bill?

Mr. COLLIER. That leaves self-determination to the Territory. There is already an act of Congress under which they are operating.

Mr. LAGUARDIA. Without further action of Congress?

Mr. COLLIER. Yes.

Mr. STAFFORD. Well, will the gentleman yield?

Mr. LAGUARDIA. I yield.

Mr. STAFFORD. Those Territories have the right, in the first instance, as in the case of Alaska, to pass a prohibition law, but Congress apparently also passed prohibition laws for each of these Territories. That is also the case in Hawaii and Puerto Rico. We originated the legislation, as far as prohibition is concerned; as far as Hawaii and Puerto Rico were concerned. As to Alaska, we originated the legislation after a referendum was had in the Territory of Alaska. We are the originators of the legislation.

Mr. COLLIER. It puts them on the same basis as the others.

Mr. LAGUARDIA. But does it? That is the point I am getting at. Will it be necessary for Congress to again take action in the event Puerto Rico, for instance, should pass a law similar to this bill, assuming it becomes a law?

Mr. COLLIER. This would simply put them on a parity with the rest of the country, and was done at the request of the Delegate.

Mr. LAGUARDIA. It seems to me it puts them at a disadvantage. We enacted the legislation, as is clear from the reference to the law contained in paragraph (b). We passed that legislation. Now, if we passed that legislation, the thing to do is to strike out section (b), as we have jurisdiction over the matter, and in that way treat them the way we are treating this country. Then, if they want to decrease the alcoholic content, they can do so.

Mr. COLLIER. They could not amend an act of Congress. I yield to the Delegate from Hawaii to give his version of the matter.

Mr. LAGUARDIA. I see the Delegate from Hawaii is on the floor—he is always on the job. I regret that the Commissioner from Puerto Rico is not on the floor.

Mr. HOUSTON of Hawaii. This legislation was previous to the Volstead Act, and it applies to the Territories what are generally called the bone-dry provisions. This merely provides, if and when this law is passed, similar application may be made to the definitions contained in those so-called bone dry laws.

Mr. LAGUARDIA. Well, is it satisfactory to the gentleman from Hawaii?

Mr. HOUSTON of Hawaii. Yes.

The pro forma amendment was withdrawn.

The Clerk read as follows:

SEC. 4. The manufacturer of any beer, ale, porter, or similar fermented liquor containing one-half of 1 per cent or more of alcohol by volume, shall for the purposes of the internal revenue laws be considered a brewer. Before engaging in business he shall, besides qualifying as a brewer under the internal revenue laws, also secure a permit under the national prohibition act, as amended and supplemented (including the amendments made by this act), authorizing him to engage in such manufacture, which permit shall be obtained in the same manner as a permit to manufacture intoxicating liquor, and be subject to all the provisions of law relating to such a permit. No permit shall be issued for the manufacture of such fermented liquor in any State, Territory, or the District of Columbia, or political subdivision of any State or Territory, if such manufacture is prohibited by the law thereof. Whoever engages in such manufacture without such permit, or in violation of such permit, shall be subject to the penalties provided by law in the case of similar violations of the national prohibition act, as amended and supplemented.

Mr. CANFIELD. Mr. Chairman, I offer an amendment which is at the desk.

The Clerk read as follows:

Amendment offered by Mr. CANFIELD: Page 5, after line 14, insert a new section, as follows:

"SEC. 5. No individual, partnership, association, or corporation shall offer to sell or sell any beer, ale, porter, or similar fermented liquor, containing one-half of 1 per cent or more of alcohol by volume and not more than 3.2 per cent of alcohol by weight, in less quantities than five gallons at one time, except for use in the home or except when served with and intended to be consumed with usual meals in a bona fide hotel, restaurant, public eating place, dining car, or club. Violations of this section shall be punished by a fine of not less than $100 or more than $1,000, or imprisonment for not less than 30 days or more than one year, or both."

Mr. RAINEY. Mr. Chairman, I make the point of order the amendment is not germane.

The CHAIRMAN. Does the gentleman from Indiana desire to be heard on the point of order?

Mr. CANFIELD. No.

The CHAIRMAN. Under the principles announced a few moments ago by the Chair applying to these amendments, the Chair sustains the point of order.

Mr. BUCKBEE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BUCKBEE: Page 5, line 14, after the word "supplemented," strike out the period, insert a colon and the following: "*Provided*, That any permit issued for the manufacture of such fermented liquor shall be conditioned upon the use by the manufacturer of grain grown or produced in the United States."

Mr. LEHLBACH. Mr. Chairman, I make the point of order the amendment is not germane.

The CHAIRMAN. Does the gentleman from Illinois desire to be heard on the point of order?

Mr. BUCKBEE. No.

The CHAIRMAN. The Chair sustains the point of order.

Mr. SCHAFER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SCHAFER: On page 4, line 20, after the word "manufacturer," insert "for sale."

Mr. SCHAFER. Mr. Chairman, I hope the members of the Ways and Means Committee will agree to accept this amendment.

Mr. RAINEY. Mr. Chairman, will the gentleman yield in order that I may propound a unanimous-consent request?

Mr. SCHAFER. I yield.

Mr. RAINEY. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 10 minutes.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

Mr. MOUSER. Mr. Chairman, I object.

Mr. SCHAFER. Mr. Chairman, I believe the members of the committee will realize that this is an amendment that should be adopted from the standpoint of a perfecting amendment.

Let us see what the language of this section will do without this amendment. Without my amendment the section under consideration will classify every home brewer in the Nation as a brewer and make him pay $1,000 for a license. There is no doubt about it. There are many humble citizens who can make good home-brew for consumption in their homes. This brew will not have an alcoholic content greater than permitted under the pending bill. It would be manifestly unfair to force them to purchase brewery beer or spend $1,000 for a license, particularly if that home-brew is less than 4 per cent alcoholic content by volume. It would be just as reasonable to force the housewife to buy bakers' products or take out a baker's license at an exorbitant cost.

I do not believe that it was the intent of any member of the Ways and Means Committee to bring in legislation

which would permit such a sad state of affairs to exist. I can understand why some of the big brewing institutions of this Nation might want to stamp out the little home brewer and force the poor man to purchase brewery beer or go without or to jail for making his own.

My amendment should be adopted and supported, particularly by those who are opposed to this bill on the grounds that the brewers have written it. Without my amendment you might reach a conclusion that the invisible hand of the great brewing institutions were instrumental in writing this section of the bill.

Mr. RAINEY. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. RAINEY. Mr. Chairman, I rise in opposition to the amendment.

The gentleman from Wisconsin has correctly stated the object of this section. It is to prevent the brewing of illegal beer anywhere, whether it is done in the home or elsewhere, and to prevent the brewing of beer by anybody other than a brewer.

Mr. BACHMANN. Mr. Chairman, will the gentleman yield?

Mr. RAINEY. I yield.

Mr. BACHMANN. I understand this 3.2 per cent beer is a nonintoxicating beverage.

Mr. RAINEY. It is. The gentleman is correct about it.

Mr. BACHMANN. Then why does the committee try to prevent an illegal beer when it makes 3.2 per cent beer legal?

Mr. RAINEY. Because home-brew contains at least 6 per cent, according to the evidence submitted before our committee. There is a large amount of it made. The object of this bill, and the reason which prompts many of us to vote for it, is the raising of revenue.

I am aware of the fact that a tremendous home-brewing industry has developed in this country. If it is to continue, it is going to interfere with the sale of legitimate beer manufactured under the provisions of this act.

At the present time the manufacture of home-brew is illegal. It is contrary to the law. The amendment suggested by the gentleman from Wisconsin simply makes it easier for home-brew beer makers to continue making their gaseous, poisonous stuff, injurious to health, and compels them, if they want to go ahead and make it, to take out this license.

The gentleman is correct in his interpretation of the language as drafted by the committee. It is intended for the exact purpose the gentleman mentioned.

Mr. BACHMANN. Mr. Chairman, I rise in support of the amendment.

I think the amendment suggested by the gentleman from Wisconsin is a very proper one. We are told by the members of the committee that 3.2 per cent beer is nonintoxicating. If you will look at section 1, on page 2 of the bill, you will find the following language:

> Brewers shall pay $1,000. Every person who manufactures fermented liquors, of any name or description, for sale, from malt, wholly or in part, or from any substitute therefor, shall be deemed a brewer.

Then if you will turn to section 4, on page 4, you will see that the words "for sale" are left out of the bill. If it is nonintoxicating, why make it unlawful for a man to manufacture and have in his possession a beverage containing more than one-half of 1 per cent of alcohol and less than 3.2 per cent, as this bill does under section 4? It makes illegal any beer between one-half of 1 per cent and 3.2 per cent, even though it is nonintoxicating. If you pass this bill in the form it is in now, you make it unlawful for a man to have in his possession beer of his own making, for his own use, which contains alcohol between one-half of 1 per cent and 3.2 per cent.

The bill permits the big brewers of the country to say to the poor man who wants to manufacture beer containing less than 3.2 per cent, for his own use and not for sale, that he can not do so lawfully unless he pays $1,000 for a license. It is not right to say to the poor man, who does not want to or can not pay 10 cents for a bottle of manufactured beer, that he can not manufacture and have for his own personal use a nonintoxicating beer of 3.2 per cent. If you want to help the brewers and not the poor man, you do that by saying that the brewers can manufacture nonintoxicating beer up to 3.2 per cent, but the poor man can not do it. If you want to do that then you want this bill left as it is, but if you want to protect the poor man having in his home beer under 3.2 per cent, which he manufactures himself for his own use, you want to vote for this amendment and add the words "for sale," in section 4.

Mr. MOUSER. Will the gentleman yield?

Mr. BACHMANN. I yield.

Mr. MOUSER. Think of the army of snoopers and revenue agents and investigators who would have to go into the ordinary homes to enforce this provision in favor of the brewers.

Mr. BACHMANN. That is true. If this bill passes in its present form a prohibition officer can go into a man's home and if he finds a nonintoxicating beer there which he made himself for his own use containing 2 per cent or 2½ per cent or 3 per cent of alcohol, he can be arrested and prosecuted under this bill.

Mr. MOUSER. And not only that, but he can be assessed $1,000.

Mr. BACHMANN. That is true.

Mr. SCHAFER. Will the gentleman yield?

Mr. BACHMANN. Yes.

Mr. SCHAFER. And it would include root beer, which is nonintoxicating and which millions of people make in their homes for their children.

Mr. BACHMANN. I do not know anything about root beer, but they can compel a man to pay $1,000 for making his own nonintoxicating beer of 3.2 per cent.

I hope the amendment of the gentleman from Wisconsin will prevail, as it ought to prevail.

[Here the gavel fell.]

The CHAIRMAN. The question is on the amendment proposed by the gentleman from Wisconsin.

The question was taken; and on a division (demanded by Mr. SCHAFER) there were—ayes 58, noes 83.

Mr. SCHAFER. Mr. Chairman, I demand tellers.

Tellers were refused.

Mr. MAPES. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, the gentleman from Illinois, the distinguished majority leader, said a moment ago, to quote his language as well as I can recall it from memory:

> Many of us are supporting this legislation because of the revenue feature of it.

I can not help but feel that those who are supporting this legislation because of the revenue feature of it or because they feel that it is going to help the economic condition of the country, are going to be greatly disappointed.

The Secretary of the Treasury, Mr. Mills, before the Committee on Ways and Means estimated that the revenue to be derived from the sale of beer under this bill would amount to somewhere between $125,000,000 and $150,000,000 for the fiscal year ending June 30, 1934, and in my judgment his estimate is a very liberal one.

It has been stated on this floor that the brewers and the distillers of the country before prohibition in their combined use of grain used only three-fourths of 1 per cent of the grain products of the country, and anybody can see that that small percentage will have very little effect upon the prices of agricultural commodities.

Last night I got from a news stand the January number of Current History. The leading article in that issue is entitled "If Beer Returns." It is a very intelligent, and so far as I could tell, an unbiased discussion of this entire matter. If anything, I judge the writer is opposed to prohibition, but he discusses very thoroughly and comprehensively and apparently impartially the revenue and different

economic phases of this whole question. I have not time to do more than to refer to it here, but I commend it to your careful reading and consideration. The writer says:

With the legalization of the liquor industries, and more particularly with the return of beer, what may we expect as far as general economic improvement is concerned? The comparative economic unimportance of the liquor industries in the period before prohibition has apparently been forgotten.

The writer then goes on to show by figures and statistics that the liquor business as compared with the total business of the country is insignificant and that it can have very little effect in relieving the business and unemployment condition of the country.

The writer further declares that—

The picture further loses some of its rosy tint when we realize that other industries will be adversely affected—

And then proceeds to elaborate that thought. An another point the article reads:

We must not lose sight of the fact that the present illicit liquor traffic in every sense conforms to the definition of an economic enterprise; it utilizes capital for plant and equipment, hires labor, buys raw materials, processes them into finished goods, and operates distributing agencies.

The writer estimates that with a tax on beer of $7.50 per barrel the revenue raised would amount to from $200,000,000 to $240,000,000 per year, but says that in his opinion that $200,000,000 would be nearer the mark. This bill proposes a tax of only $5 per barrel, one-third less, which would make his estimate about $166,000,000 per year, a comparatively insignificant sum when we take into consideration the estimated deficit for the next fiscal year of between $1,000,000,000 and $2,000,000,000.

Mr. WILLIAM E. HULL. Will the gentleman yield?

Mr. MAPES. I yield to the gentleman from Illinois.

Mr. WILLIAM E. HULL. Has the gentleman taken into consideration the labor and the expenditure for other matetrials that go into the income tax?

Mr. MAPES. The writer takes that into consideration. He sums up his discussion of that phase of the subject with this statement:

Whether or not other industries will profit from beer's return will depend upon the brewers' willingness to spend money with a lavish hand.

He then adds:

The present indications are against it.

I think the gentleman will find the article well worth while to read.

Mr. RAINEY. Mr. Chairman, I ask unanimous consent that all debate on this section and all amendments thereto close in five minutes.

The CHAIRMAN. Is there objection?

Mr. KVALE. Reserving the right to object, can the gentleman inform us how many amendments are to be offered to this section?

Mr. RAINEY. That I can not say, but if the gentleman from Minnesota wants 5 minutes, I will ask, Mr. Chairman, that the debate on this section and all amendments thereto close in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. LAGUARDIA. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Page 5, line 9, after the word "prohibited," insert "or has not affirmatively permitted it."

Mr. RAINEY. To that, Mr. Chairman, I make a point of order.

Mr. LAGUARDIA. I would like to be heard, Mr. Chairman, on the point of order.

The CHAIRMAN. The Chair thinks it is proper to call the attention of the gentleman from New York that under this amendment, as the Chair construes it, it would require the State to take affirmative action by legislation before this provision was put into effect.

Mr. LAGUARDIA. Will the Chair hear me on the point of order?

The CHAIRMAN. The Chair will hear the gentleman.

Mr. LAGUARDIA. I am sure the Chair will agree that the preservation of the rules of the House as established by many years of precedents is more important than any provision in this bill before the House to-day.

I submit that here there is a provision in the bill reading:

No permit shall be issued for the manufacture of such fermented liquor in any State, Territory, or the District of Columbia or political subdivision of any State or Territory if such manufacture is prohibited by the law thereof.

Surely that permits an amendment to require affirmative action permitting the sale and manufacture of the kind of liquor herein provided in that State. In other words, Congress is now changing an existing law which is now applicable to all States of the Union. The bill under consideration is not applicable to all States, as it specifically exempts certain States. My amendment is certainly germane, as it simply extends the negative proviso. My amendment would simply give notice to the States that if they desire to avail themselves of the provisions of this bill they must affirmatively say so and take such action as the law requires.

I want to say that the very conditions that have been complained of with the unrestricted sale of beer would continue. The very basis of modification is that beer is untaxed and in the control of gangsters and racketeers. Now, if beer is sold in any State without regulation it surely would be in the control of racketeers. How is the State to protect itself otherwise? It might be several months before the States could adjust themselves to the changed conditions. Without going into the merits of the proposition, I want to say that I have changed my amendment from yesterday in order to meet the anticipated ruling of the Chair. The fundamental purpose of my amendment is surely in harmony with the fundamental purpose of the section it seeks to amend. Therefore it is entirely within the rulings earlier laid down by the Chair. I submit that this is in keeping with the intent of the very conditions, the changed conditions, under which permits may be issued.

The CHAIRMAN. In reply to the gentleman, the Chair desires to state that the very explanation the gentleman has made with reference to the purpose of his amendment more than ever convinces the Chair that his ruling is a correct one, for the reason that it is patent, not only from the reading of the amendment but from what the gentleman has stated, that his amendment goes far afield from the fundamental purpose of this revenue bill. The Chair, therefore, sustains the point of order.

The Clerk read as follows:

SEC. 6. In order that beer, ale, porter, and similar fermented liquor, containing 3.2 per cent or less of alcohol by weight, may be divested of their interstate character in certain cases, the shipment or transportation thereof in any manner or by any means whatsoever, from one State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, or from any foreign country, into any State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, which fermented liquor is intended, by any person interested therein, to be received, possessed, sold, or in any manner used, either in the original package or otherwise, in violation of any law of such State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, is hereby prohibited. Nothing in this section shall be construed as making lawful the shipment or transportation of any liquor the shipment or transportation of which is prohibited by the act of March 1, 1913, entitled "An act divesting intoxicating liquors of their interstate character in certain cases" (U. S. C., Sup. V, title 27, sec. 122).

Mr. HOCH. Mr. Chairman, I move to strike out the last word. I take the floor to call attention to what seems to me inaccuracy of phraseology used in this section. I read from line 21, page 5:

In order that beer, ale, porter, and similar fermented liquor, containing 3.2 per cent or less of alcohol by weight, may be divested of their interstate character in certain cases—

And so forth.

This is an attempt, of course, to follow the precedent of the Webb-Kenyon law. In the first place, the liquor itself

has no interstate character. The transportation may have interstate character, but the liquor itself has no interstate character. This says:

In order to divest the liquor of its interstate character.

But the more important inaccuracy as I view it is this: The sole basis of Federal jurisdiction in this case is the commerce clause of the Constitution. If we have any jurisdiction to do what is proposed to do in section 6, it is because of the interstate character of the transportation, and yet it is solemnly declared here that in order to divest this transportation of its interstate character we shall proceed to prohibit it. The only grounds that we have for prohibiting it is in regulation of its interstate character in and not in divesting it of it. We can not by simple legislative fiat divest a thing which has interstate character from its interstate character, but even if we could do the thing which is proposed, namely, divest it of its interstate character, we would instanter be without jurisdiction to prohibit it. In other words, the minute we take the interstate character away from this transportation, then we have no jurisdiction to prohibit it.

Mr. VINSON of Kentucky. It is the question of giving the States the power to step in after it is divested of interstate character.

Mr. HOCH. Not at all. This declares a certain thing prohibited. What? The transportation of a certain thing in interstate commerce.

Mr. VINSON of Kentucky. The language of the section does not so state.

Mr. HOCH. Let me read it to the gentleman:

In order that beer, ale, porter, and similar fermented liquor, containing 3.2 per cent or less of alcohol by weight, may be divested of their interstate character in certain cases the shipment or transportation thereof in any manner or by any means whatsoever from one State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, or from any foreign country, into any State—

And so forth. Where the State law prohibits its manufacture and sale—

is hereby prohibited.

In other words, the transportation in interstate commerce into dry territory is prohibited.

Mr. RAINEY. Mr. Chairman, will the gentleman yield?

Mr. HOCH. Yes.

Mr. RAINEY. The section criticized follows the Webb-Kenyon Act word for word, and was carefully considered and drafted by the experts, based on the language contained in the case of Black Distilling Co. against The Maryland Railroad.

Mr. HOCH. I am quite familiar with that case, and I am familiar with the Webb-Kenyon law. It is true that the drafters of the Webb-Kenyon law put a title on the law which was inaccurate. The title was "An act to divest liquors of their interstate character," but when you come to read the law you find no such language divesting it of its interstate character. You simply find that the transportation of liquor into dry territory is prohibited. If gentlemen desire to do what they say—and while opposed to this bill, I am in favor of any provision which attempts to give protection to dry States—then in line 24 they should simply say that the shipment and transportation in any manner in interstate character is prohibited. It is a constitutional absurdity, if I may use that language, to say that we are going to divest interstate transportation of its interstate character, when we get our sole jurisdiction to do anything about it from the interstate commerce clause of the Constitution.

Mr. VINSON of Kentucky. It seems to me that we could well afford to follow the well-beaten path laid down by the Supreme Court of the United States.

Mr. HOCH. Certainly, but I call attention to the fact that the Webb-Kenyon law contains no such language, and I have it before me. The title as I say is inaccurate, and the gentleman is too good a legislator not to know that the title is in no way controlling as to the body of the act.

Mr. VINSON of Kentucky. But the Supreme Court has construed the Webb-Kenyon law as to intoxicating liquor.

Mr. HOCH. I do not yield further on that, because plainly the gentleman misses the point I make.

The CHAIRMAN. The time of the gentleman from Kansas has expired.

Mr. MOUSER. Mr. Chairman, I move to strike out the last 12 words.

Mr. RAINEY. Mr. Chairman, I ask unanimous consent that further debate on this section and all amendments thereto conclude in five minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. MOUSER. Mr. Chairman, I call attention to the fact that this bill should be recommitted to the committee unless the Schafer amendment is adopted. It is very seldom that I agree with JOHN SCHAFER, who I think is somewhat prejudiced upon these questions, because he comes from the great beer city, Milwaukee. Unless the man who makes home brew in his home is protected by having the word "sale" added to the provision of law which might make him amenable to the payment of $1,000 for a permit, we are going to see promiscuous raiding of private homes in America at the instance of the brewers, which is going to cause an uprising of feeling in this country.

Are those who claim it is being introduced because of the mandate of the American people sincere or is it an endeavor to put a club in the hands of the brewers of this country, who in order to control wholly the manufacture of beer will cause raids to be made upon the homes of the laboring man and cause him to pay $1,000 for a permit to manufacture so-called beer, which will include more than one-half of 1 per cent alcohol by volume.

Mr. WILLIAM E. HULL. Will the gentleman yield?

Mr. MOUSER. I yield.

Mr. WILLIAM E. HULL. There is nothing in this law to prevent anybody from building a brewery, is there?

Mr. MOUSER. The gentleman does not mean to say that a man who has home brew in his home, not for sale, is a brewer?

Mr. WILLIAM E. HULL. I ask the gentleman the question, Is there anything in this bill that prevents anybody from building a brewery?

Mr. MOUSER. The gentleman is begging the question.

Mr. WILLIAM E. HULL. No; I am not.

Mr. MOUSER. I do not yield further.

Mr. WILLIAM E. HULL. I just wanted to show the gentleman he was wrong, because anybody can build a brewery and take out a license. That is all there is to it.

Mr. MOUSER. The gentleman knows that the poor man who swings a pick and uses a shovel upon the roadside or in excavating for buildings, who makes $1.25 or $1.50 a day, can not afford to pay a tax on this beer, and therefore from a common sense and practical viewpoint he will continue to manufacture his home-brew, which will contain more than one-half of 1 per cent. But at the instance of the brewers a raid can be made upon his home because he is violating the law if he has home-brew in his possession containing alcohol of more than one-half of 1 per cent by volume, and he is amenable to a thousand-dollar fine because it will cost him that much for a permit to make home-brew.

Mr. BACHMANN. Will the gentleman yield?

Mr. MOUSER. I yield.

Mr. BACHMANN. Is it not a fact that this bill, as it now stands, with the Schafer amendment voted down, makes a brewer out of every man who makes beer in his home with alcohol content under 3.2 per cent and makes him pay a license of $1,000?

Mr. MOUSER. Absolutely. That is the point I am making, and if it contains alcohol of more than one-half of 1 per cent by volume he is amenable to a thousand-dollar fine, in effect, because it will cost him that much to get a permit.

What becomes of the argument made by those who decried the raiding of private homes in America? Are you who are so interested in the poor man having a drink going to turn this over, body and soul, to the brewers of America? That is the point.

The CHAIRMAN. The time of the gentleman has expired.

The Clerk read as follows:

SEC. 7. Whoever orders, purchases, or causes beer, ale, porter, or similar fermented liquor, containing 3.2 per cent or less of alcohol by weight, to be transported in interstate commerce, except for scientific, sacramental, medicinal, or mechanical purposes, into any State, Territory, or the District of Columbia, the laws of which State, Territory, or District prohibit the manufacture or sale therein of such fermented liquors for beverage purposes, shall be fined not more than $1,000 or imprisoned not more than six months, or both; and for any subsequent offense shall be imprisoned for not more than one year. Nothing in this section shall be construed as making lawful the shipment or transportation of any liquor the shipment or transportation of which is prohibited by section 5 of the act entitled "An act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1918, and for other purposes," approved March 3, 1917, as amended and supplemented (U. S. C., Sup. V, title 27, sec. 123).

Mr. HARLAN. Mr. Chairman, I offer an amendment, which is at the desk:

The Clerk read as follows:

Amendment offered by Mr. HARLAN: Page 6, line 23, after the word "the," strike out the words "manufacture or" and insert in lieu thereof the words "purchase and."

Mr. RAINEY. Mr. Chairman, I make a point of order against the amendment that it is not germane. This paragraph discusses the manufacture of beer.

Mr. HARLAN. It simply limits the section, Mr. Chairman.

Mr. LAGUARDIA. Mr. Chairman, if the fundamental purpose of the amendment is contrary to the fundamental purpose of the bill, it is not in order.

The CHAIRMAN (Mr. BANKHEAD). The Chair overrules the point of order.

Mr. HARLAN. Mr. Chairman, prior to the adoption of the eighteenth amendment there were 26 States in this country that had adopted prohibition. Thirteen of those twenty-six States allowed the citizens of their respective States to purchase intoxicating liquors in other States, under certain quotas. The Reed amendment was put into the Webb-Kenyon Act, and section 7 of this bill is simply the Reed amendment, not with any idea of putting teeth in the prohibition law, but to put a club over those States that really and sincerely desired to stop the manufacture and sale of intoxicating liquor in their own communities, and they desired to get away from the saloon, but they wanted their citizens to have the right to purchase a limited quantity of beverage in other States and use it. The Reed amendment was adopted, of which section 7 of this bill is a copy, to force those States—if they wanted to stop manufacture in their own States, if they wanted to wipe out the saloons in their own States—to stop purchasing liquors in other States.

Now, to me there is something a great deal more vital in this bill before the committee this afternoon than getting 3.2 per cent beer, something more vital than any form of intoxicating liquor, and that something is the preservation of State rights. It is the preservation of government. The purpose of section 7, which was the Reed amendment, was to destroy and knock down State rights; to say to States which desired to do without the saloon, and to say to States which desired to do without the manufacture of beer or other intoxicants, "You can not allow your citizens to purchase in other States unless you allow manufacture in your own State, unless you allow saloons in your own State."

It was thought by that amendment to stop the great parade of States that were going into prohibition ranks. If this Reed amendment is readopted to-day it will do the very thing that we antiprohibitionists are trying to circumvent. We are trying to restore the rights of the States to control their own people and institutions. This bill is a reincarnation of the Reed amendment and is designed to circumvent, to defeat, that very purpose. I do not think that any antiprohibitionist who is interested in the preservation of State rights, in the rights of the States to decide these questions, who is interested in the preservation of our ideas of government, can afford to reenact this bill. If a State prohibits the purchase of intoxicating liquors, we should prohibit intoxicating liquor being sent there; but if a State merely prohibits the manufacture of intoxicating liquor in its own State, there is no reason why we should step in and say that no beverage shall be sent into that State.

It simply is the antithesis of what the antiprohibitionists have as the basis of their doctrine, it seems to me.

We are now approaching another stage in our experiment to control alcoholic beverages. It seems to me to be highly desirable to encourage States to exercise strict control within their own borders if the people of that State are so inclined. The reason prohibition has failed nationally is because the people of the United States as a whole do not want it; but this would not be the result in States where the people really desire to live in a community where alcoholic drinks are prohibited. Now, by the bill that is before the House we are in fact saying to these States, "If you attempt to eradicate the manufacture and distribution of alcohol within your own State and then permit any of your citizens to buy such beverages which are manufactured in another State, we, the Federal Government, will step in and prevent such purchases and sale." The manifest object of that is to dissuade States from attempting prohibition within their own borders because the citizens thereof will know that they can not legally obtain alcoholic beverages.

There is nothing to be gained by the Government by such an attitude, and we will unquestionably dissuade and even prevent many States from adopting prohibitory laws, because they realize that the administration of such prohibitory laws without the privilege extended to their citizens to purchase in other States will be practically impossible.

Let us not take an action to-day that will prevent the States from at least taking an additional further step toward State prohibition if they so desire.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio.

The amendment was rejected.

Mr. CLANCY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CLANCY: Page 6, line 25, after the word "than," strike out "$1,000" and insert "$1."

Mr. CLANCY. Mr. Chairman, on yesterday I criticized this section 7 as being too drastic in that, especially with regard to the second offense of purchasing a bottle of beer in a dry State, a mandatory sentence of one year in a Federal prison without the opportunity of a parole was placed upon the offending person.

This noon the gentleman from Texas [Mr. BLANTON] criticized the speech I made yesterday and inferred that I was a hypocrite on two grounds: First, because I deemed it an honor to have been the last speaker of the wet Republicans in the general debate; and, second, because I changed my politics from the Democratic Party to the Republican Party some years ago, as millions of good Americans did after the notorious Madison Square convention of 1924.

Now, backing up my motives for this amendment, I wish to say that I was always against terroristic and fanatical punishments such as are incorporated in this provision. Not only was it an honor, no matter how it came about, yesterday to be the last speaker, but it was a privilege and a point of vantage from which I could answer some of the dry arguments made against the bill. Now, I have been criticized because I changed my politics from the Democratic Party to the Republican Party eight years ago.

Mr. BULWINKLE. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. BULWINKLE. Mr. Chairman, I make the point of order that the gentleman from Michigan is not confining his remarks to his amendment.

The CHAIRMAN. The point of order is well taken. The gentleman from Michigan will proceed in order.

Mr. CLANCY. Mr. Chairman, I am leading up to the amendment. I am stating my motives in offering the amendment.

The CHAIRMAN. The gentleman is not rising to a question of personal privilege, which, of course, could only be done in the House.

Mr. MOUSER. Mr. Chairman, will the gentleman yield?

The gentleman was always a Republican in spirit, even though at one time he qualified as a Democrat.

Mr. CLANCY. I thank the gentleman. I have never given up my principles any more than Grover Cleveland or Theodore Roosevelt did when they changed their party, nor any more than the millions of Republicans who changed their parties November 8 last.

This section 7 does not partake of the general liberal aspects of this beer bill. This is a liberal measure, ordered by millions who left their parties as a mandate, yet there is a fanatical terroristic element in the penalty proposed.

This outdoes the Jones-Stalker law. There are a lot of wet voters in dry States. They are a minority, but the minority has some rights; yet, if a man or woman who likes good beer and is, say, seduced into buying a bottle of beer by an undercover agent, then for the first offense the fine limit is $1,000—just for one bottle of beer—or six months in prison, and for the second offense a mandatory sentence of one year in jail is imposed and the judge is deprived of any power to extend clemency, and no parole is allowed.

If this section is maintained in the House, I certainly hope it is stricken out in the Senate.

Mr. RAINEY. Mr. Chairman, will the gentleman yield?

Mr. CLANCY. I yield.

Mr. RAINEY. I call the gentleman's attention to the fact that the court may impose a fine of from $1 to $1,000.

Mr. CLANCY. My amendment makes the limit $1 instead of $1,000.

Mr. RAINEY. The court can impose that fine under the present wording of the bill.

Mr. CLANCY. Or it may impose a fine of $1,000.

I have a second amendment in which I ask that the mandatory punishment of one year in jail for the second offense of purchasing one or more bottles of beer be stricken out.

[Here the gavel fell.]

Mr. RAINEY. Mr. Chairman, I move that all debate on this section and all amendments thereto do now close.

The motion was agreed to.

The CHAIRMAN. The question is on the amendment of the gentleman from Michigan [Mr. CLANCY].

The amendment was rejected.

Mr. CLANCY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CLANCY: Page 7, line 1, after the word "both," strike out the words "and for any subsequent offense shall be imprisoned for not more than one year."

Mr. CLANCY. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CLANCY. Is debate allowable on this amendment?

The CHAIRMAN. It is not.

The question is on the amendment of the gentleman from Michigan.

The amendment was rejected.

Mr. SCHAFER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment by Mr. SCHAFER: Page 6, line 17, strike out all of section 7.

The CHAIRMAN. The question is on the amendment of the gentleman from Wisconsin.

The question was taken; and, on a division (demanded by Mr. SCHAFER), there were—ayes 8, noes 53.

So the amendment was rejected.

The Clerk read as follows:

SEC. 8. Any offense committed, or any right accrued, or any penalty or obligation incurred, or any seizure or forfeiture made, prior to the effective date of this act, under the provisions of the national prohibition act, as amended and supplemented, or under any permit or regulation issued thereunder, may be prosecuted or enforced in the same manner and with the same effect as if this act had not been enacted.

Mr. RAYBURN. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I have no quarrel with anyone about his attitude on legislation, because I presume that everybody is as honest as I hope I am.

Yesterday during the remarks of the gentleman from Wisconsin I interrogated him and asked him what was his answer to the argument of a Member who thought it mattered not what his party platform said, that this bill in its present form—and it has not been amended—was a violation not only of the spirit but the letter of the Constitution. The gentleman from Wisconsin responded by reading the syllabus of a Texas decision, which I think he will acknowledge by this time was not an answer to my question. However, that is not exactly the matter about which I arose to remark.

After that the gentleman from New York [Mr. O'CONNOR] secured the consent of the gentleman from Wisconsin to interrogate him, and in order to reach the point I want to make I desire to read the question propounded by the gentleman from New York [Mr. O'CONNOR]:

In connection with the statement of the distinguished gentleman from Texas [Mr. RAYBURN], does not the gentleman from Wisconsin think that we who have complained of usurpation of our powers ought to be the last ones to usurp the power of the Supreme Court to pass on constitutional questions, for the very reason that that is all the court is created for, and we could dispense with them if we were going to pass on the constitutionality of such measures?

Now, as I stated in the beginning, I quarrel with no man about his position on legislation; but I do challenge the announcement of such a doctrine as that, and I make the statement here and now that no lawyer in America, from the foundation of the Republic to the present, who ever wrote his name high in that great profession, ever announced the doctrine that a member of a legislative body could escape his responsibility as a citizen and as a legislator to pass upon the constitutionality of the measure presented and should, by shunning his duty, pass it on to the Supreme Court of the United States.

Mr. O'CONNOR. Will the gentleman yield there?

Mr. RAYBURN. I yield.

Mr. O'CONNOR. Is it not a fact that in some States where their highest courts can advise without a real question being presented to them, that the legislature, without themselves passing upon the constitutionality of proposed legislation, submits such questions to the court, not feeling that they are all-sufficient unto themselves?

Mr. RAYBURN. That may be. I am not here to argue with some State that has made a fundamental error and a great mistake like that. I am here to talk about the duty of a Member of the Congress of the United States in voting his conscience and what he believes to be the law in cases of this sort; and I do not believe a more fundamental error could creep into legislation in the Congress of the United States than this oft-repeated thing—let us shun our responsibility under the Constitution and under our oath of office and pass these questions up to the Supreme Court of the United States to do its duty, which we ourselves refuse to do.

Mr. O'CONNOR. Will the gentleman yield further?

Mr. RAYBURN. I yield.

[Here the gavel fell.]

Mr. McCORMACK. Mr. Chairman, I ask unanimous consent that the gentleman's time may be extended five additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. O'CONNOR. Will the gentleman from Texas advise the committee what a Member of Congress is going to do in arriving at a conclusion as to the constitutionality of proposed legislation if he be not a lawyer?

Mr. RAYBURN. If he be not a lawyer? Then he might depend upon the best judgment of men who he thinks are good lawyers and upon his own best judgment with respect to what he himself thinks about it. [Applause.]

Now, Mr. Chairman, as to this bill, allow me to say:

The Democratic platform adopted at Chicago last summer contains the following language:

Sale of beer and other beverages of such alcoholic content as is permissable under the Constitution.

This bill proposes to amend the Volstead Act with reference to the alcoholic content of beverages. The Constitution has not been changed since the Volstead Act was drawn to give effect to the eighteenth amendment. The alcoholic content mentioned in the Volstead Act, beyond question, outlawed the sale of beverages containing enough alcohol to make them intoxicating.

Since the eighteenth amendment has not been modified, since it is still a part of the Constitution, Congress can not legalize the sale of beverages containing alcohol in sufficient proportion to be intoxicating. The majority of the Ways and Means Committee are of the opinion that 3.2 per cent of alcohol in a beverage is not sufficient to make it intoxicating. This is their judgment after hearing evidence for several days. With due respect to the sincerity and intelligence of the distinguished gentlemen who have made the majority report on this bill, I find myself in accord with the judgment of those filing minority reports. I believe that people can readily become intoxicated on a beverage with as high an alcoholic content as this bill attempts to make legal. Since I firmly believe that a beverage containing as much alcohol as 3.2 per cent will make a man drunk, I do not believe that the bill proposed is constitutional. Being convinced that it is not constitutional, I can not in good conscience support it.

Since there is so large a body of public opinion in this country wanting to repeal or modify the eighteenth amendment, I believe that the interests of sound government require that the question be submitted to the people in the manner provided for in the Constitution. If the people refuse to adopt the amendment submitted, then it would become the duty of the Congress to provide the means of enforcing the statutes drawn to give effect to the eighteenth amendment. The Congress would be greatly embarrassed if it were confronted by a previous action undertaking to bring liquors that are generally regarded as intoxicating within the pale of the law. The people of the United States did a radical and drastic thing when they adopted the eighteenth amendment. They did it because they had become convinced that the local communities and the States could not adequately control a nationally organized liquor traffic. The abuses incident to the open saloon forced the amendment into the Constitution. The brewers were believed by the people to be in a large measure responsible for the open saloon, which became so offensive as to cause an entire nation to write a sumptuary statute into its fundamental law. This bill would bring back the open saloon while we still have in the Constitution the amendment adopted to put an end to the saloon as a commercial and social institution. If the people of this country want the open saloon again, let them amend their Constitution so as to make it lawful. Before that is done, I do not believe that any court can or will sustain a bill such as the one under consideration.

Mr. RAINEY. Mr. Chairman, I ask unanimous consent that all debate on this section and all amendments thereto close in five minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. McSWAIN. Mr. Chairman, I rise in opposition to the pro forma amendment.

Mr. Chairman, I agree absolutely with the general proposition of law announced by the distinguished gentleman from Texas [Mr. RAYBURN], except the remark contained in the conclusion of his answer, to the effect that if a Member of this House does not know what the Constitution is or what it means he ought to ask some lawyer who does know.

So far as the eighteenth amendment is concerned, all the law books in the world can not define, and do not define, what is meant by the term "intoxicating."

This proposition of what beverage is intoxicating met me months ago, and in the exercise of my duty as a Member of this Congress, having taken an oath to support and defend the eighteenth amendment as a part of the Constitution, as well as all other parts, I undertook to find out what, in fact, is an "intoxicating beverage." I found it in no law book. I found it in no book anywhere. So I appealed to the medical profession who, of all men on the face of the earth, ought to know, and surely do know, what is in fact an "intoxicating beverage," because they have the right now, and have had it from time immemorial, to prescribe the use of alcohol in varying amounts and in varying strengths as a drug in the treatment of disease. I appealed to every doctor in my district by sending out a questionnaire which is printed in this morning's RECORD.

I have heard from a large number of them, and 82 per cent of these eminent physicians in my district have answered me that in their opinion, based on their study and their observation and their experience, a beer of 3.2 per cent by weight, or 4 per cent by volume, as a matter of fact, is not intoxicating. [Applause.]

Now, if it is not, and I have taken the best opinion I know, then I feel that I can, within my constitutional obligations, follow also the platform of my party. [Applause.]

The Clerk concluded the reading of the bill.

Mr. COLLIER. Mr. Chairman, I move that the committee do now rise and report the bill back to the House with the recommendation that the bill do pass.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. BANKHEAD, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee, having had under consideration the bill (H. R. 13742) to provide revenue by the taxation of certain nonintoxicating liquor, and for other purposes, had directed him to report the same back to the House with the recommendation that it do pass.

The bill was ordered to be read a third time, and was read the third time.

Mr. CROWTHER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. CROWTHER. I am.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CROWTHER moves to recommit the bill (H. R. 13742) to the Committee on the Judiciary.

Mr. CROWTHER. Mr. Speaker, on that motion I move the previous question.

Mr. COCHRAN of Missouri. Mr. Speaker, I make the point of order against the motion to recommit. This bill came from the Committee on Ways and Means, and the motion to recommit is to the Judiciary Committee. The precedents——

The SPEAKER. This is not a question of precedent. You can move to recommit it to any committee of the House. The question is on ordering the previous question.

The previous question was ordered.

The SPEAKER. The question is on the motion to recommit.

The question was taken, and the motion to recommit was rejected.

The SPEAKER. The question now is on the passage of the bill.

Mr. COLLIER. And on that, Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 230, nays 165, answered "present" 3, not voting 30, as follows:

[Roll No. 132]

YEAS—230

Aldrich	Curry	Kading	Polk
Andresen	Darrow	Kahn	Prall
Andrew, Mass.	Davis, Pa.	Keller	Pratt, Harcourt J.
Andrews, N. Y.	Davis, Tenn.	Kelly, Ill.	Pratt, Ruth
Arentz	Delaney	Kemp	Rainey
Arnold	De Priest	Kendall	Ransley
Auf der Heide	Dickinson	Kennedy, Md.	Reilly
Bacharach	Dickstein	Kennedy, N. Y.	Rogers, Mass.
Bachmann	Dies	Kerr	Rogers, N. H.
Bacon	Dieterich	Kniffin	Romjue
Baldrige	Doughton	Knutson	Rudd
Barbour	Douglass, Mass.	Kunz	Sabath
Beam	Drewry	Kvale	Schafer
Beck	Dyer	LaGuardia	Schneider
Black	Eaton, N. J.	Lamneck	Schuetz
Bloom	Englebright	Larrabee	Seger
Boehne	Erk	Lea	Shannon
Boileau	Estep	Lehlbach	Shreve
Boland	Evans, Mont.	Lewis	Sirovich
Bolton	Fernandez	Lichtenwalner	Smith, Va.
Boylan	Fiesinger	Lindsay	Smith, W. Va.
Britten	Fish	Lonergan	Somers, N. Y.
Brumm	Fitzpatrick	Loofbourow	Spence
Brunner	Flood	Lozier	Stafford
Buchanan	Foss	McCormack	Steagall
Buckbee	Fulbright	McDuffie	Stewart
Bulwinkle	Fulmer	McKeown	Stokes
Burdick	Gambrill	McLeod	Sullivan, N. Y.
Byrns	Gasque	McMillan	Sullivan, Pa.
Campbell, Pa.	Gavagan	McReynolds	Sutphin
Canfield	Gibson	McSwain	Sweeney
Cannon	Gifford	Maas	Taylor, Colo.
Carden	Golder	Major	Thomason
Carley	Goss	Maloney	Tierney
Carter, Calif.	Granfield	Mansfield	Tinkham
Carter, Wyo.	Griffin	Martin, Mass.	Treadway
Cary	Hadley	May	Turpin
Cavicchia	Haines	Mead	Underwood
Celler	Hancock, N. Y.	Millard	Vinson, Ga.
Chapman	Hancock, N. C.	Milligan	Vinson, Ky.
Chase	Harlan	Mitchell	Warren
Chavez	Hart	Montague	Watson
Chindblom	Hartley	Montet	Welch
Clague	Hess	Niedringhaus	West
Clancy	Hill, Ala.	Nolan	White
Cochran, Mo.	Hill, Wash.	Norton, N. J.	Whitley
Cole, Md.	Hollister	O'Connor	Wigglesworth
Collier	Holmes	Oliver, N. Y.	Williams, Mo.
Condon	Hopkins	Overton	Withrow
Connery	Howard	Owen	Wolcott
Connolly	Hull, William E.	Palmisano	Wolfenden
Cooke	Igoe	Parker, Ga.	Wolverton
Corning	Jacobsen	Parker, N. Y.	Woodruff
Coyle	James	Parsons	Woodrum
Cross	Jeffers	Perkins	Wyant
Crosser	Johnson, Mo.	Person	Yon
Crowe	Johnson, S. Dak.	Pettengill	
Cullen	Johnson, Wash.	Pittenger	

NAYS—165

Adkins	Driver	Lambeth	Seiberling
Allen	Eaton, Colo.	Lanham	Selvig
Allgood	Ellzey	Lankford, Ga.	Shallenberger
Almon	Eslick	Lankford, Va.	Shott
Ayres	Evans, Calif.	Leavitt	Simmons
Bankhead	Finley	Lovette	Sinclair
Barton	Fishburne	Luce	Smith, Idaho
Beedy	Flannagan	Ludlow	Snell
Biddle	Frear	McClintic, Okla.	Snow
Bland	French	McClintock, Ohio	Sparks
Blanton	Garber	McFadden	Stalker
Bowman	Gilchrist	Magrady	Stevenson
Brand, Ohio	Glover	Manlove	Strong, Kans.
Briggs	Goldsborough	Mapes	Strong, Pa.
Browning	Green	Michener	Stull
Burch	Greenwood	Miller	Summers, Wash.
Burtness	Gregory	Moore, Ky.	Sumners, Tex.
Busby	Guyer	Moore, Ohio	Swank
Cable	Hall, Ill.	Morehead	Swanson
Campbell, Iowa	Hall, N. Dak.	Mouser	Swick
Castellow	Hardy	Murphy	Swing
Chiperfield	Hare	Nelson, Me.	Taber
Christgau	Hastings	Nelson, Mo.	Tarver
Christopherson	Haugen	Nelson, Wis.	Taylor, Tenn.
Clark, N. C.	Hawley	Norton, Nebr.	Temple
Clarke, N. Y.	Hoch	Oliver, Ala.	Thatcher
Cochran, Pa.	Hogg, W. Va.	Parks	Thurston
Cole, Iowa	Holaday	Partridge	Timberlake
Collins	Hooper	Patman	Underhill
Colton	Hope	Patterson	Wason
Cooper, Ohio	Houston, Del.	Purnell	Weaver
Cooper, Tenn.	Huddleston	Ramseyer	Weeks
Cox	Hull, Morton D.	Ramspeck	Whittington
Crail	Jenkins	Rankin	Williamson
Crowther	Johnson, Okla.	Rayburn	Wilson
Culkin	Jones	Reed, N. Y.	Wood, Ga.
Davenport	Kelly, Pa.	Reid, Ill.	Wood, Ind.
DeRouen	Ketcham	Rich	Wright
Disney	Kinzer	Robinson	Yates
Dominick	Kopp	Sanders, N. Y.	
Dowell	Kurtz	Sanders, Tex.	
Doxey	Lambertson	Sandlin	

ANSWERED "PRESENT"—3

Johnson, Tex.	McGugin	Williams, Tex.

NOT VOTING—30

Abernethy	Doutrich	Griswold	Martin, Oreg.
Amlie	Drane	Hall, Miss.	Mobley
Bohn	Free	Hogg, Ind.	Peavey
Brand, Ga.	Freeman	Hornor	Pou
Butler	Fuller	Horr	Ragon
Cartwright	Gilbert	Johnson, Ill.	Wingo
Crump	Gillen	Kleberg	
Douglas, Ariz.	Goodwin	Larsen	

The Clerk announced the following pairs:

Mr. Kleberg (for) with Mr. Williams of Texas (against).
Mr. Doutrich (for) with Mr. Johnson of Texas (against).
Mr. Hornor (for) with Mr. Johnson of Illinois (against).
Mr. Free (for) with Mr. Goodwin (against).
Mr. Martin of Oregon (for) with Mr. Gilbert (against).
Mr. Amlie (for) with Mr. Cartwright (against).
Mr. Crump (for) with Mr. Mobley (against).
Mr. Gillen (for) with Mrs. Wingo (against).
Mr. Griswold (for) with Mr. Hogg of Indiana (against).
Mr. Fuller (for) with Mr. Ragon (against).
Mr. Pou (for) with Mr. McGugin (against).

Until further notice:

Mr. Abernathy with Mr. Butler.

Mr. RAINEY. Mr. Speaker, I am instructed to state that the following Members if present would have voted for the bill: Mr. DRANE, Mr. HORR, Mr. PEAVEY, Mr. BOHN, Mr. FREEMAN, and Mr. DOUGLAS of Arizona.

Mr. JOHNSON of Oklahoma. Mr. Speaker, my colleague, Mr. CARTWRIGHT, is unavoidably absent. If he was here, he would vote "no." He is paired against the bill.

Mr. COOPER of Tennessee. Mr. Speaker, my colleague, Mr. CRUMP, of Tennessee, is unavoidably absent on account of illness. If present, he would vote "aye."

Mr. JOHNSON of Texas. Mr. Speaker, I am paired with the gentleman from Pennsylvania, Mr. DOUTRICH. I therefore withdraw my vote and answer "present." If I was not paired, I would vote "no."

Mr. WOODRUFF. Mr. Speaker, I am instructed to say that my colleague, Doctor BOHN, was called away on important business. If here, he would vote "aye."

Mr. McGUGIN. Mr. Speaker, I have a pair with the gentleman from North Carolina, Mr. POU. If Mr. POU was here, he would vote "aye." I withdraw my vote of "no" and answer "present."

Mr. HADLEY. Mr. Speaker, I am requested to state that my colleague, Mr. HORR, is unavoidably absent on account of illness. If here, he would vote "aye."

Mr. HAWLEY. Mr. Speaker, my colleague, Mr. BUTLER, is dangerously ill in the hospital and unable to be present.

Mr. BOEHNE. Mr. Speaker, I wish to announce the absence from the city of my colleagues from Indiana, Mr. GRISWOLD and Mr. GILLEN. If they were here and permitted to vote, they would vote "aye."

Mr. GREGORY. Mr. Speaker, my colleague, Mr. GILBERT, was called home unexpectedly on account of illness in his family.

The result of the vote was then announced as above recorded.

On motion of Mr. RAINEY, a motion to reconsider the vote whereby the bill was passed was laid on the table.

Mr. BURTNESS. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BURTNESS. Is it now in order to offer an amendment to the title?

The SPEAKER. The Chair thinks that is permissible.

Mr. BURTNESS. Mr. Speaker, I move to amend the title by striking out the word "nonintoxicating." If that is debatable, I desire recognition.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. BURTNESS to the title of the bill: Strike out the word "nonintoxicating."

The SPEAKER. The question is on the amendment offered by the gentleman from South Dakota.

The amendment was rejected.

WILLIAM E. CLEARY

Mr. CULLEN. Mr. Speaker, it is with a deep sense of regret and profound sorrow that I rise in my place this afternoon to announce to the House the death of one of the former Members of the House of Representatives, William E. Cleary. Mr. Cleary served in the Sixty-fifth Congress by succeeding the late Daniel Griffin, of Brooklyn, N. Y. He served in the Sixty-sixth, Sixty-eighth, and Sixty-ninth Congresses, and those of us who served with him will best remember him as one of the most painstaking and intelligent legislators we have ever had in this body. He died in Brooklyn on the 19th of this month, and by his death the country loses a great American, his State a great citizen, and his constituency and his people a splendid public official and a successful business man.

THE BEER BILL

Mr. CONNERY. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by inserting therein a letter which I have received from Labor's National Committee for the modification of the Volstead Act.

The SPEAKER. Is there objection?

There was no objection.

Mr. CONNERY. Mr. Speaker, at the age of 14 I became a member of the Father Matthew Total Abstinence Society of my home city of Lynn, Mass. At that time, upon my entrance into this society, I took a pledge to abstain from intoxicating liquors of any kind. I am pleased to say that I have never violated that pledge.

Mr. Speaker, at the time I joined the Father Matthew Total Abstinence Society I can say without hesitation that more than 80 per cent of the graduates of the grammar schools took a similar pledge, and what is more, most of them kept that pledge until national prohibition had been placed in the Constitution of the United States.

Mr. Speaker, from my observations there is more drinking going on at the present time than there was when we had the open saloon.

I am not advocating the return of the saloon, but I have no hesitancy in saying that the open saloon of the past was not as bad in its influence on the youth of our country as are the speak-easies of to-day.

Mr. Speaker, when I was a lad growing up the number of boys in high school and college who used intoxicating liquors were very, very few. To-day what do we find? Almost every high school and college has its favorite bootlegger.

Prior to prohibition how many young women indulged in intoxicating liquors? The number were very few.

Contrast that condition with the present, when hundreds of thousands of high-school girls and college girls are using hard liquors, liquors that their mothers never knew the taste of when they were girls.

One of the reasons, if not the controlling reason, why young men and young women are now using hard liquors is because it is smart.

Prior to constitutional prohibition the people of the United States were the most temperate in the civilized world.

To-day it is well known the people of America are the most intemperate of the entire civilized world.

We have to-day hundreds of speak-easies operating where but one licensed and regulated saloon existed prior to constitutional prohibition.

Mr. Speaker, to-day we have constitutional prohibition, with more intoxicating liquors consumed every month in our country than were consumed prior to the adoption of the eighteenth amendment.

To-day we have hundreds of thousands of honest, law-abiding tradesmen unable to secure employment, due entirely to constitutional prohibition, whereas prior to constitutional prohibition these men had honest and profitable employment.

This morning I received from Matthew Woll, president, and John B. Colpoys, secretary, of Labor's National Committee for Modification of the Volstead Act, an appeal that we pass this bill as soon as possible, and the arguments therein advanced are so well written I am going to include them as a part of my remarks.

LABOR'S NATIONAL COMMITTEE FOR
MODIFICATION OF THE VOLSTEAD ACT,
Washington, D. C., December 20, 1932.

To all Members of Congress:

DEAR SIR: During the coming week the House of Representatives will vote upon the report of the Ways and Means Committee on the Collier bill, a bill having for its purpose the modification of the Volstead Act to raise the alcoholic content of beer to a higher percentage than permitted by the present law, but which will conform to a strict interpretation of the eighteenth amendment of our Constitution.

May we take the liberty of asking you to cast your vote in the affirmative on the report of the Ways and Means Committee by briefly calling your attention to the reasons therefor?

Expert opinion, beyond peradventure, is to the effect that a 3.2 per cent beer is nonintoxicating in fact.

The manufacture and sale of beer of such alcoholic content will be the opening wedge in the elimination of the bootlegger, racketeer, and gangster, a class of people who have become a grave danger to responsible and orderly government.

A real opportunity will be given to the present and future generations not only to preach but also to practice true temperance.

Employment opportunities will be opened to hundreds of thousands, thus aiding in the relief of the distressing conditions to workers in all walks of life.

By the tax proposed the income to government will be augmented, which in time will permit repealing many of the onerous and burdensome taxes which the people are now called upon to raise for the maintenance of government.

We believe that Members of Congress should exercise their judgment, honestly arrived at, on all questions of legislation except on a distinct mandate from the electorate of our country. On this particular question of legislation there offers no room for argument as to the wishes of a vast majority of the people as expressed in the election on November 8. Both party platforms took cognizance of the apparent views of the people on this question and there can be no excuse offered for failure to carry out their wishes.

The fundamentals of our form of government are on trial; and as stanch believers and defenders of our Government, we urge you, as a representative of the people, to comply with their desires and vote for the passage of the Collier bill.

Respectfully yours,

MATTHEW WOLL,
President.
JOHN B. COLPOYS,
Secretary-Treasurer.

In passing, it might be well for me to call the attention of the House to the fact that the signers of this appeal from organized labor, Matthew Woll and John B. Colpoys, are total abstainers in that they do not use any type of malt or spirituous liquors themselves. In addition, neither of these men will in any way, other than bettering the conditions of the workers and improving the welfare of our country, benefit by the modification of the Volstead Act.

In closing, let me predict that with the modification of the Volstead Act we will see better conditions for the farmers and more employment for the millions of idle workers of our country.

Mr. Speaker, however, it is my belief that the greatest benefit which the people of our Nation will derive from the modification of the Volstead Act is the elimination of the desire on the part of our boys and girls to use intoxicating liquors. Remove the smartness and the boys and girls of America will again start total abstinence societies which will soon make America a temperate nation.

Mr. Speaker, I appeal to those Members of the House who are not biased, who are not dominated by fanaticism, who believe in the rule of the majority, to vote for the passage of this beer bill. To my mind, the voters of America at the last election delivered a mandate to the Congress of the United States to immediately modify the Volstead Act.

PERSONAL EXPLANATION

Mr. DOUGLAS of Arizona. Mr. Speaker, I was unavoidably absent when the roll was called on the beer bill. Had I been here I would have voted "yea."

LEAVE TO EXTEND FOR FIVE LEGISLATIVE DAYS

Mr. BANKHEAD. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BANKHEAD. Unanimous consent was granted yesterday to all Members to extend their remarks in the RECORD on this bill for five legislative days. Does that date from to-day or yesterday, when the consent was given?

The SPEAKER. It dates from the day the consent was given.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1663. An act to prohibit the sending of unsolicited merchandise through the mails; to the Committee on the Post Office and Post Roads.

ADJOURNMENT

Mr. RAINEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly, at 4 o'clock and 15 minutes p. m., the House adjourned until to-morrow, Thursday, December 22, 1932, at 12 o'clock noon.

COMMITTEE HEARINGS

Tentative list of committee hearings scheduled for Thursday, December 22, 1932, as reported to the floor leader:

EXPENDITURES

(10.30 a. m.)

Hearings on President's message on consolidation of governmental activities.

NAVAL AFFAIRS

(10.30 a. m.)

Continue hearings on House Joint Resolution 500, authorizing Secretary of the Navy to sell obsolete and surplus clothing.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

832. A letter from the Secretary of War, transmitting draft of a bill to authorize the adjustment of a portion of the boundary line of the Plattsburg Barracks Military Reservation, in the State of New York; to the Committee on Military Affairs.

833. A letter from the Secretary of the Treasury, transmitting draft of a proposed bill, the purpose of which is to enable the Treasury to afford relief to holders of national bank notes, Federal reserve bank notes, and Federal reserve notes, which may not be redeemed under present law because they have been so defaced that the identity of the issuing banks can not be ascertained; to the Committee on Banking and Currency.

834. A letter from the Acting Secretary of Commerce, transmitting a list of documents and files of papers which are not needed nor useful in the transaction of the current business of the department and do not appear to have any historical value; to the Committee on Disposition of Useless Executive Papers.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of Rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. LOVETTE: A bill (H. R. 13847) to authorize The Adjutant General to loan to Kings Mountain Post, to American Legion, Johnson City, Tenn., certain Army equipment; to the Committee on Military Affairs.

By Mr. LUDLOW: A bill (H. R. 13848) to amend section 27 of the radio act of 1927 (44 Stat. 1172); to the Committee on Merchant Marine, Radio, and Fisheries.

By Mr. McSWAIN: A bill (H. R. 13849) to provide for the protection of national military parks, national parks, battlefield sites, national monuments, and miscellaneous memorials under the control of the War Department; to the Committee on Military Affairs.

By Mr. MAAS: A bill (H. R. 13850) to confer certain benefits on commissioned officers and enlisted men of the Army and Navy, Marine Corps, Coast Guard, Geodetic Survey, or Public Health Service of the United States who are placed on the retired list for physical disability as result of an airplane accident; to the Committee on Military Affairs.

By Mr. SABATH: A bill (H. R. 13851) to amend paragraph 1, section 201, title 2, of the emergency relief and construction act of 1932; to the Committee on Banking and Currency.

By Mr. ALLEN: A bill (H. R. 13852) to extend the time for the construction of a bridge across the Rock River south of Moline, Ill.; to the Committee on Interstate and Foreign Commerce.

By Mrs. NORTON: A bill (H. R. 13853) to authorize the merger of the Georgetown Gaslight Co. with and into the Washington Gas Light Co., and for other purposes; to the Committee on the District of Columbia.

By Mr. SMITH of Idaho: A bill (H. R. 13854) for the temporary relief of water users on irrigation projects constructed and operated under the reclamation law; to the Committee on Irrigation and Reclamation.

By Mr. STEVENSON: A bill (H. R. 13855) to amend section 5219 of the Revised Statutes, as amended; to the Committee on Banking and Currency.

By Mr. PURNELL: A bill (H. R. 13856) to repeal section 9 of the agricultural marketing act, relating to stabilization activities; to the Committee on Agriculture.

By Mr. EATON of Colorado: A bill (H. R. 13857) transferring the Forest Service from the Department of Agriculture to the Department of the Interior; to the Committee on Agriculture.

Also, a resolution (H. Res. 332) disapproving the transfer of the General Land Office from the Department of the Interior to the Department of Agriculture; to the Committee on Expenditures in the Executive Departments.

By Mr. PARKER of Georgia: Joint resolution (H. J. Res. 518) establishing the United States Georgia Bicentennial Commission, and for other purposes; to the Committee on Rules.

By Mr. WELCH: Joint resolution (H. J. Res. 519) authorizing the President of the United States to present the distinguished-flying cross to Emory B. Bronte; to the Committee on Naval Affairs.

By Mr. ROMJUE: Joint resolution (H. J. Res. 520) providing for the calling of a conference of the governors of the various States for the purpose of furnishing relief to the masses of the taxpayers of the country, and particularly to furnish relief by lessening the burdens of taxation to a more reasonable status on the agricultural lands of the various States; to the Committee on Agriculture.

By Mr. McCORMACK: Joint resolution (H. J. Res. 521) authorizing the issuance of a special postage stamp in honor of Brig. Gen. Thaddeus Kosciusko; to the Committee on the Post Office and Post Roads.

Also, joint resolution (H. J. Res. 522) directing the President of the United States of America to proclaim October 11 of each year General Pulaski's Memorial Day for the observance and commemoration of the death of Brig. Gen. Casimir Pulaski; to the Committee on the Judiciary.

By Mr. SABATH: Joint resolution (H. J. Res. 523) authorizing the issuance of a special postage stamp in honor of Brig. Gen. Thaddeus Kosciusko; to the Committee on the Post Office and Post Roads.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BOEHNE: A bill (H. R. 13858) for the relief of Alfred Harris; to the Committee on Claims.

By Mr. CORNING: A bill (H. R. 13859) granting an increase of pension to Mary G. Watt; to the Committee on Invalid Pensions.

By Mr. GREENWOOD: A bill (H. R. 13860) granting an increase of pension to James B. Long; to the Committee on Invalid Pensions.

By Mr. HOCH: A bill (H. R. 13861) granting an increase of pension to Mary M. A. Thoroughman; to the Committee on Invalid Pensions.

By Mr. HOPKINS: A bill (H. R. 13862) granting an increase of pension to Percilla E. Williams; to the Committee on Invalid Pensions.

Also, a bill (H. R. 13863) granting an increase of pension to Mary M. Headley; to the Committee on Invalid Pensions.

By Mr. LAMBERTSON: A bill (H. R. 13864) granting a pension to Edith Rhodes Gallion; to the Committee on Pensions.

By Mr. NOLAN: A bill (H. R. 13865) for the relief of Joseph Lane; to the Committee on Claims.

Also, a bill (H. R. 13866) for the relief of John F. Patterson; to the Committee on Military Affairs.

By Mrs. NORTON: A bill (H. R. 13867) to authorize the Commissioners of the District of Columbia to reappoint George N. Richardson in the police department of said District; to the Committee on the District of Columbia.

By Mr. RANSLEY: A bill (H. R. 13868) for the relief of Edward Curry; to the Committee on Military Affairs.

By Mr. REED of New York: A bill (H. R. 13869) granting an increase of pension to Susan Bock; to the Committee on Invalid Pensions.

By Mr. SCHAFER: A bill (H. R. 13870) for the relief of Peter Karampelis; to the Committee on Claims.

By Mr. MURPHY: Resolution (H. Res. 331) to pay to Martha H. Miller, daughter of Thomas M. Holt, late an employee of the House, an amount equal to one year's compensation of the said Thomas M. Holt; to the Committee on Accounts.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

9157. By Mr. BUCKBEE: Petition of Mrs. William Johnson, secretary of the Swedish Ladies Union Aid Society, 903 Fourth Avenue, Rockford, Ill., and 41 others, asking the House of Representatives to vote favorably upon the stop-alien representation amendment; to the Committee on the Judiciary.

9158. By Mr. COCHRAN of Pennsylvania: Petition of several citizens of Johnsonburg, Pa., urging the passage of the stop-alien amendment to the United States Constitution to cut out the 6,280,000 aliens in this country, and count only American citizens, when making future apportionments for congressional districts; to the Committee on the Judiciary.

9159. Also, petition of citizens of Marienville, Pa., urging the passage of the stop-alien amendment to the Constitution of the United States to cut out the 6,280,000 aliens in this country, and count only American citizens, when making future apportionments for congressional districts; to the Committee on the Census.

9160. By Mr. CONDON: Petition of Herbert H. Denison and 202 other citizens of Rhode Island, protesting against repeal or modification of existing legislation beneficial to Spanish War veterans, their widows, or dependents; to the Committee on World War Veterans' Legislation.

9161. Also, petition of William E. McGann and 59 other citizens of Rhode Island, protesting against any repeal or modification of existing legislation beneficial to Spanish War veterans, their widows, or dependents; to the Committee on World War Veterans' Legislation.

9162. By Mr. MEAD: Petition of the Maritime Association of the Port of New York, protesting against the Reconstruction Finance Corporation loaning money for purpose of building terminal, consisting of docks, piers, bulkheads, etc., at Bayonne, N. J.; to the Committee on Banking and Currency.

9163. Also, petition of citizens of Eden, Erie County, N. Y., urging support of the stop-alien representation amendment to the Constitution to count only American citizens when making future apportionments for congressional districts; to the Committee on the Judiciary.

9164. By Mr. MURPHY: Petition of 44 citizens of Martins Ferry, Belmont County, Ohio, urging the passage of a stop-alien representation amendment to the United States Constitution to cut out the 6,280,000 aliens in this country, and count only American citizens, when making future apportionments for congressional districts; to the Committee on the Judiciary.

9165. By Mr. PERKINS: Petition of Elizabeth B. Titus, vice president of the Woman's Christian Temperance Union of Hunterdon County, N. J., also containing the names of 49 members of that organization, opposing legislative acts that would legalize alcoholic liquors stronger than one-half of 1 per cent; to the Committee on Ways and Means.

9166. Also, petition containing 47 names of citizens of Bloomingdale, Passaic County, N. J., opposing legislative acts that would legalize alcoholic liquors stronger than one-half of 1 per cent; to the Committee on Ways and Means.

9167. Also, petition containing 213 names of citizens of Warren County, N. J., opposing legislative acts that would legalize alcoholic liquors stronger than one-half of 1 per cent; to the Committee on Ways and Means.

9168. Also, petition containing the names of 204 residents of Ridgewood, Bergen, County, N. J., opposing legislative acts that would legalize alcoholic liquors stronger than one-half of 1 per cent; to the Committee on Ways and Means.

9169. Also, petition containing 119 names of citizens of Bergen County, N. J., opposing legislative acts that would legalize alcoholic liquors stronger than one-half of 1 per cent; to the Committee on Ways and Means.

9170. Also, petition containing 162 names of citizens of Newton, Sussex County, N. J., opposing legislative acts that would legalize alcoholic liquors stronger than one-half of 1 per cent; to the Committee on Ways and Means.

9171. By Mr. SEGER: Memorial of the New Jersey State Federation of Women's Clubs and the Paterson and Passaic sections of the National Council of Jewish Women on the war debts; to the Committee on Foreign Affairs.

9172. Also, petition of 46 residents of Passaic County, N. J., expressing opposition to the return of beer; to the Committee on Ways and Means.

9173. By Mr. STRONG of Pennsylvania: Petition of citizens of Blairsville, Pa., favoring the proposed amendment to the Constitution of the United States to exclude aliens and count only American citizens when making future congressional apportionments; to the Committee on the Judiciary.

9174. Also, petition of citizens of Kittanning, Pa., urging immediate restoration of the 2-cent rate of postage on first-class mail; to the Committee on Ways and Means.

9175. By Mr. THOMASON: Petition of citizens of Andrews County, Tex., urging the enforcement of the eighteenth amendment and opposing any modification of the Volstead Act; to the Committee on the Judiciary.

9176. By Mr. WEST: Petition of 56 citizens of Newark, Ohio, urging passage of the stop-alien representation amendment to the United States Constitution to cut out the 6,280,000 aliens in this country and count only American citizens when making future apportionments for congressional districts; to the Committee on the Judiciary.

9177. Also, petition of Woman's Home Missionary Society of Plymouth, Ohio, urging passage of a bill which will (1) establish a Federal motion-picture commission; (2) declare the motion-picture industry a public utility; (3) regulate the trade practices of the industry used in the distribution of pictures; (4) supervise the selection and treatment of subject material during the process of production; and (5) provide that all pictures entering interstate and foreign commerce be produced and distributed under Government supervision and regulation; also urging support of bill No. 1079 and Senate Resolution 170; to the Committee on Interstate and Foreign Commerce.

SENATE

THURSDAY, DECEMBER 22, 1932

(Legislative day of Thursday, December 8, 1932)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

The PRESIDENT pro tempore. The Senate will receive a message from the House of Representatives.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Chaffee, one of its clerks, announced that the House had